Meeting Called to Order

Invocation  
Parks and Recreation Director John Holland
Pledge of Allegiance

Approval of Agenda

Mayor’s Report  
Projected Time

City Manager’s Report  
Projected Time

City Attorney’s Report  
Projected Time
### Non-Action Items

#### Projected Time

### Citizen Comments  |  5 p.m. or soon thereafter  
(if the meeting ends earlier than 5:00 p.m., the citizen comments will be at the end of the meeting)  
(Three (3) minutes are allowed for each speaker; not to exceed a total of 30 minutes for this portion of the meeting)

### Consent Agenda

#### Projected Time

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<tr>
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<tbody>
<tr>
<td><strong>a.</strong></td>
<td>Approve the minutes of 10/28/13.</td>
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<tr>
<td><strong>b.</strong></td>
<td>Approve the following contracts:</td>
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<tr>
<td>1.</td>
<td>Piggyback City of Jacksonville Beach Contract No. 1213-03 with Heart Utilities of Jacksonville, Inc. for installation of underground electric infrastructure; and authorize the Mayor to execute the piggyback contract along with a purchase order for payment; $1,500,000.00.</td>
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<tr>
<td>2.</td>
<td>Piggyback City of Orlando Contract No. IFB 10-0003 with Central Environmental Services, Inc. for demolition of residential and commercial structures; and authorize the Mayor to execute the piggyback contract along with a Purchase Order for payment.</td>
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<tr>
<td>3.</td>
<td>Sole source contract with NCH Corporation dba ChemSearch to install and maintain Bio-Amp Odor Control Systems for lift station Nos. 3, 11, 33 and 95; and authorize the Mayor to execute the contract along with a subsequent Purchase Order.</td>
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<tr>
<td>6.</td>
<td>Contract renewal with Universal Engineering Sciences, Amendment 1 for RFQ-2-2012 Continuing Contract for Professional, Architectural &amp; Engineering Services (Geotechnical Services); and authorize the Mayor to execute Amendment 1.</td>
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<tr>
<td><strong>c.</strong></td>
<td>Approve the Orange County/City of Winter Park Interlocal Utility Agreement regarding water/wastewater services.</td>
</tr>
<tr>
<td><strong>d.</strong></td>
<td>Authorize the Mayor to execute the Electric Power Purchase and Sale Agreement by and between the City Of Winter Park, Florida and Covanta Energy Marketing, LLC.</td>
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### Action Items Requiring Discussion

#### Projected Time

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<tbody>
<tr>
<td><strong>a.</strong></td>
<td>Prioritization of recommendation from the WRT Study</td>
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<td><strong>b.</strong></td>
<td>Downtown parking update</td>
</tr>
<tr>
<td><strong>c.</strong></td>
<td>Proposed settlement of auction rate securities claim</td>
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<tr>
<td><strong>d.</strong></td>
<td>City Manager’s 2014 performance evaluation</td>
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### 11 Public Hearings

<table>
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<th>Projected Time</th>
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<td>5 minutes</td>
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#### a. Request of Aloma Avenue Holdings LLC:

- **Ordinance** – Change the existing zoning of Multi-Family Residential (R-3) District to Office (O-2) District at 409 St. Andrews Boulevard. (2)

#### b. Ordinance – Amending Section 2-48, General rules applicable to subsidiary boards of the City (2)

### 12 City Commission Reports

<table>
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<th>Projected Time</th>
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<td>10 minutes each</td>
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</table>

a. Commissioner Leary  
b. Commissioner Sprinkel  
c. Commissioner Cooper  
d. Commissioner McMacken  
e. Mayor Bradley

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**appeals & assistance**

“If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.” (F. S. 286.0105).

“Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk’s Office (407-599-3277) at least 48 hours in advance of the meeting.”
Below are issues of interest to the Commission and community that are currently being worked on by staff, but do not currently require action on the Commission agenda. These items are being tracked to provide the Commission and community the most up to date information regarding the status of the various issues. The City Manager will be happy to answer questions or provide additional updates at the meeting.

<table>
<thead>
<tr>
<th>issue</th>
<th>update</th>
<th>date</th>
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<tbody>
<tr>
<td>Lee Road Median Update</td>
<td>Permit received. Developing construction schedule and bidding tree acquisition.</td>
<td>Installation to begin in November 2013</td>
</tr>
<tr>
<td>Fairbanks Improvement Project</td>
<td>Duke Energy continuing to study transmission/distribution lines between 1-4 and 17-92. FDOT has approved funding for PEF project engineering. PEF and FDOT have executed the engineering agreement. Engineering is scheduled for completion Spring 2014. Survey for electric undergrounding started.</td>
<td>Construction Project Contractor behind schedule. Connection to sewer instructions posted on City website.</td>
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<td></td>
<td>Communication Notices</td>
<td></td>
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<td></td>
<td>• Jackson lift station undergoing startup testing.</td>
<td></td>
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<tr>
<td></td>
<td>• Working with future customers regarding connection to gravity sewer.</td>
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<tr>
<td>Amtrak/SunRail Station</td>
<td>Roof tiling being constructed. Amtrak parking lot improvements underway. Constructing underground utilities.</td>
<td>Building complete January 2014 SunRail complete May 2014</td>
</tr>
<tr>
<td>Quiet Zones</td>
<td>FDOT consultant still reviewing concept plans.</td>
<td>Ongoing coordination with MetroPlan and FDOT.</td>
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<tr>
<td>New Hope Baptist Church Project</td>
<td>The Pastor recently authorized additional work with a new project manager who has completed the skirting on the portables, placed the handicap ramp and steps in place, performed grading on the site and hired a new plumber to complete work on the restrooms. The daughter of the Pastor is still pursuing licensing w/DCF as a faith based child care facility.</td>
<td>Fall of 2013 (per Pastor)</td>
</tr>
<tr>
<td>Alfond Inn</td>
<td>Additional drainage improvements have been installed to resolve drainage issues.</td>
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| Construction Roll Off Containers | Staff has been working with Waste Pro to modify the franchise to expand the residential recycling program and further develop shared commercial waste programs. This proposed modification is not yet ready for Commission discussion.

Waste Pro has agreed to sign an addendum to the existing Franchise Agreement excluding residential construction from the franchise agreement on a temporary basis while the revised franchise agreement is finalized. Roll off containers will now become a part of the broader negotiations that should likely be ready for Commission discussion early in 2014.

The City attorney is preparing the addendum for the next meeting. | November 25, 2014 |

Once projects have been resolved, they will remain on the list for one additional meeting to share the resolution with the public and then be removed.
The meeting of the Winter Park City Commission was called to order by Mayor Kenneth Bradley at 3:36 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida. The invocation was provided by Reverend Anthony Borka, St. Dorothy Catholic Community, followed by the Pledge of Allegiance.

Members present:
Mayor Kenneth Bradley
Commissioner Steven Leary
Commissioner Sarah Sprinkel
Commissioner Carolyn Cooper
Commissioner Tom McMacken

Also present:
City Manager Randy Knight
City Attorney Larry Brown
City Clerk Cynthia Bonham
Deputy City Clerk Michelle Bernstein

Approval of the agenda
Commissioner McMacken requested to discuss Item 11D prior to Item 11C. Motion made by Mayor Bradley to approve the agenda with the above change; seconded by Commissioner Sprinkel and approved by acclamation with a 5-0 vote.

Mayor’s Report

a. Proclamation – Feed the Need Month
Mayor Bradley proclaimed the month of November 2013 as “Feed the Need” month and urged our community to observe this month by participating in helping to feed our hungry neighbors in the Central Florida community. Patrick Chapin, President of the Winter Park Chamber of Commerce was present to accept the proclamation and announced the kickoff event to take place on Thursday, October 31 at 10:00 a.m. at City Hall. He invited the Commission to attend.

b. Presentation - Finalist Plaque for the 2013 National Gold Medal Awards for Excellence in Park and Recreation Management
Parks and Recreation Director John Holland presented the Commission with their finalist plaque for the 2013 National Gold Medal Awards for Excellence in Park and Recreation Management. Mayor Bradley congratulated them on their significant achievement.

c. Presentation - Achievement for Excellence in Financial Reporting from the Government Finance Officers Association Award
Finance Director Wes Hamil presented the Commission with their award. Mayor Bradley congratulated City staff for their outstanding efforts.
d. **Presentation - National WateReuse Project of the Year - Winter Park Estates Wastewater Treatment Facility Award**

Water/Wastewater Director David Zusi presented the Commission with their award. Mayor Bradley commended City staff on their prestigious achievements.

e. **Presentation – Electric Utility Community Service Award**

Electric Director Jerry Warren presented the Commission with their Community Services award. Mayor Bradley applauded staff.

f. **Appointment to MetroPlan Orlando Citizens Advisory Committee**

*Motion made by Mayor Bradley to appoint John Caron to this position as recommended by Executive Director Harold Barley of the MetroPlan Orlando; seconded by Commissioner Leary and carried unanimously with a 5-0 vote.*

**City Manager’s Report**

Planning and Community Development Director Dori Stone addressed Commissioner Cooper’s question related to the status of the consultant’s input on the City’s visioning process. Ms. Stone commented they spoke about coming back in a month so by the next meeting she should have input.

**City Attorney’s Report** – No items.

**Non-Action Item**

Finance Director Wes Hamil provided the August 2013 financial report and answered questions.

*Motion made by Commissioner Cooper to accept the August 2013 financial report; seconded by Commissioner Sprinkel.* No public comments were made. *Motion carried unanimously with a 5-0 vote.*

**Consent Agenda**

a. Approve the minutes of 10/14/13. – **PULLED FOR DISCUSSION, SEE BELOW.**
b. Cancel the December 23, 2013 Commission meeting due to the holidays.
c. Approve the following purchases and contracts:
   1. Blanket Purchase Order to Layne Inliner for Sewer Line Rehabilitation cleaning and video recording and authorize the Mayor to execute Piggyback contract; $600,000.
   2. Renewal and Purchase Order 151223 to Brown & Brown of Florida, Inc. for Insurance Agent of Record (RFP-13-2012); $100,000.
3. Purchase request for new tasers and equipment from Taser International and subsequent purchase order for the replacement of tasers using forfeiture funds; $73,204.67.
4. After the fact PO 151311 to Winter Park Public Library for FY14 organizational support; $1,364,560.
5. Blanket Purchase Order to Brown, Garganese, Weiss & D’Agresta for attorney services (RFP-21-2009); $312,000.
6. Blanket Purchase Order to Mead Botanical Garden, Inc. for contribution to capital improvements; $185,000.
7. Blanket Purchase Order to Winter Park Historical Association for FY14 Organizational Support; $70,000.
8. Blanket Purchase Order to William J. Peebles for State Lobbyist Services $52,000.
10. Products and Services Agreement with Centurylink Sales Solutions, Inc. Amendment 3 for RFP-16-2010, Emergency Debris Management Services; and authorize the Mayor to execute the Agreement; $5,331.
11. Piggybacking the City of Orlando Contract, BI09-2518 with United Site Services of Florida for portable toilet rental and authorize the Mayor to execute the piggyback contract.
d. Authorize the Mayor to execute the First Amendment to the Native Load Firm Fixed Capacity and Partial Requirements Transaction Confirmation between the City of Winter Park, FL and Florida Power & Light Company dated August 12, 2013.

Motion made by Commissioner McMacken to approve Consent Agenda items ‘b’, ‘c.1-11″ and ‘d’; seconded by Commissioner Sprinkel. No public comments were made. The motion carried unanimously with a 5-0 vote.

Consent Agenda Item ‘a’, Minutes

Upon discussion, a motion was made by Commissioner Cooper to amend the minutes, page 4, to read “Discussion ensued concerning Rule 12.” and to delete the remainder of the paragraph; seconded by Commissioner McMacken and carried unanimously with a 5-0 vote.

Action Items Requiring Discussion

a. City Manager evaluation

City Manager Knight distributed a summary of each Commissioner’s evaluation report. He noted that in accordance with the FY 2014 budget, the City Manager is eligible for up to 2.5% merit increase.
Motion made by Commissioner Leary to approve a 2.5% merit increase; seconded by Commissioner Cooper.

Commissioner Cooper addressed the suggestions they were able to make at the end of the evaluation for points they would like considered as part of their evaluation next year. Mr. Knight stated he would compile them and circulate them to the Commission as some require group direction and there may not be agreement on some of the suggestions. Commissioner Cooper agreed that the group needs to agree on what the City Manager will be evaluated on next year.

No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

b. Request for a partial use fee waiver for use of the West Meadow for the Harvest Festival to be held on Saturday, November 23, 2013.

Parks and Recreation Director John Holland summarized the request. City Manager Knight addressed the policy related to fee waivers. Mr. Holland commented that the Parks Board does not consider waivers for weekend events according to the policy but that they unanimously approved the event. Mr. Knight clarified that they are asking for the fee to go back to the normal fee versus being charged double due to renting booths and that the Commission has the ability to override the policy if the circumstances dictate.

Discussion ensued as to previous discussions regarding fee waivers, which events should be considered, and which events are currently on the list for fee waivers.

Motion made by Mayor Bradley that we place the Harvest Festival in the month of November if it is currently held in the month of November under the fee waived category; seconded by Commissioner Sprinkel.

Further questions were asked regarding fees charged for the West Meadow, the ongoing waived fee list for all parks, the criteria considered for adding an event to the list of fee waived events, and whether this event meets the criteria used to determine if an event’s fee should be waived. Mr. Holland responded and addressed this event being different because it is a private promoter and if there is money to be made, they make it. Mayor Bradley spoke how the event promotes things that Keep Winter Park Beautiful promotes and gardening.

Commissioner Leary raised his concern with the event if the organizer raises booth prices every year, when should they start paying the entire fees. Commissioner McMacken stated he would be more in favor of the request if they were not charging booths for profit. Commissioner Cooper preferred to see a gradual increase toward the full fee and was not inclined to waive the entire fee. Commissioner Sprinkel inquired about other events that are using the West Meadow
and charging any type of fees. Commissioner Leary commented that if this request comes before them next year that he wanted to better understand the financials and if they can afford to pay the entire fee. Mayor Bradley was agreeable to accept the half fee this year and go back to the Parks Board and see if it belongs on the waive list.

**Mayor Bradley withdrew the above motion; seconder agreed.**

**Motion made by Mayor Bradley to approve the half fee waiver as requested and request that our Parks and Recreation Board review whether or not this event appropriately should be placed on our fee waiver group and come back with a recommendation; seconded by Commissioner Sprinkel.**

Winter Park Chamber of Commerce CEO Patrick Chapin spoke in support of the waiver.

**Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

c. **Settlement proposal – City of Winter Park v Maxmedia et al.**

Attorney Brown spoke about the Commission consensus during the executive session to direct him to move to stay and abate the pending litigation involving Maxmedia and Clear Channel and to seek a declaratory statement from the FDOT on the question they discussed. He stated there was also discussion regarding the two other options. He asked for a motion if that is what the Commission agrees to.

**Motion made by Commissioner McMacken to direct the City Attorney to stay and abate the pending litigation and to seek a declaratory statement from FDOT; seconded by Commissioner Leary.**

Mayor Bradley provided a brief summary regarding the billboard litigation. He spoke about not wanting to expend City resources in terms of litigation but wants to do what is right for all parties. Commissioner Sprinkel spoke about wanting an expeditious settlement in this matter so the cost is not added to. Attorney Brown addressed a settlement proposal that would resolve the matter now but he did not believe there was a strong consensus to move in that direction. He stated he was not sure that option would still be on the table once this other action is taken and that the Commission needs to decide whether to take the deal available now or hopefully obtain the clarification from FDOT whether both digital billboards can be on Lee Road within 1,000 feet on the same side of Lee Road. He understood the consensus was to obtain FDOT’s declaratory statement on the matter.

Daniel LaRosa, Clear Channel Outdoor, 5333 Old Winter Garden Road, Orlando, represented the applicant. He provided commentary regarding the settlement
agreement proposed by them and their understanding about the City wanting clarification regarding the two structures on Lee Road. He stated that FDOT informed them this could not happen that leaves them in a situation where you would have competing parties as to who would be first in line for the one permit along that stretch of road (Clear Channel currently has the permit and a structure is erected in order for the components of the Ravaudage Planned Development (PD) to be fulfilled). There were certain concessions in the PD that were given by Orange County to Mr. Bellows and in order to fulfill those conditions they would have to maintain the status quo of Clear Channel maintaining its current position and keeping the FDOT permit. He commented that will not eliminate the litigation; the City is requesting a temporary injunctive relief even though all parties are sitting at a status quo and are not moving forward anyway.

Mr. LaRosa concluded that if this goes back to the judge and gets a determination, regardless of who comes out in favor it will not eliminate the litigation because it will still put one of the parties in a position to seek damages back from the City. He clarified that he was the one to put the settlement options together trying to satisfy all parties involved, and that Clear Channel did not start this litigation but were pulled into it because they needed to defend themselves. He could not guarantee that the two options would be available and asked for the Commission to consider the options before them.

Attorney Brown responded by providing legal counsel. He stated he is on board with Mr. LaRosa’s comments because that is our litigation position and believe the City accepted and wanted the Clear Channel deal but then MaxMedia came in with the Orange County permit. He further explained the City’s position regarding the litigation, and that he made it clear which option he recommended.

Patrick Chapin, Winter Park Chamber of Commerce, requested clarity regarding the City Attorney’s recommendations and spoke about Clear Channel being a great community partner.

Commissioner Sprinkel reiterated her position of wanting to settle and recommended looking closely at option 2.

**Upon a roll call vote, Mayor Bradley and Commissioner Sprinkel voted no. Commissioners Leary, Cooper and McMacken voted yes. The motion carried with a 3-2 vote.**

**Public Hearings:**

a. **ORDINANCE NO. 2941-13:** AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 26 ARTICLE III “FILM INDUSTRY” TO STREAMLINE THE FILM PERMITTING PROCESS AND AMEND CERTAIN PROVISIONS. **Second Reading**
Attorney Brown read the ordinance by title. **Motion made by Commissioner Leary to adopt the ordinance; seconded by Commissioner McMacken.**

Commissioner Cooper asked for clarification with the language regarding the City Manager and the Film Commissioner issuing the permit. Building Director Wiggins explained why it was written this way. Following a brief discussion, Attorney Brown agreed to add language to the ordinance to clarify the two step process.

No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**b. ORDINANCE NO. 2942-13:** AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 74, PERSONNEL, ARTICLE V, RETIREMENT AND PENSION PLANS, DIVISION 4, FIRE FIGHTERS, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER PARK; AMENDING SECTION 74-201, DEFINITIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE. **Second Reading**

Attorney Brown read the ordinance by title. **Motion made by Commissioner Leary to adopt the ordinance; seconded by Commissioner Sprinkel.** No public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

**Public Comment (5:00 p.m.)**

Peter Weldon, 700 Via Lombardy, asked that the City approve a Resolution to recognize our previous Commissioners for approving the electric utility system because of its success. He also addressed that system maintenance expenses including tree trimming is expected to decrease every year as undergrounding proceeds.

He asked to set an expectation for future Commissions by approving a Resolution that will formalize the contribution of electric system maintenance savings resulting from undergrounding to the management of trees in the City’s right-of-ways so as to eventually self-fund such tree management on an ongoing basis from electric utility surpluses.

A recess was taken from 4:57 p.m. to 5:04 p.m.

Please note: Public Hearing item ‘d’ was moved before item ‘c’
d. **Request of Windermere Winter Park Ventures LLC:** To amend their conditional use approval to remove the prohibition on garage doors versus open carports at the two story, 9 unit residential condominium building under construction at 434-444 W. Swoope Avenue, zoned R-3.

Mayor Bradley noted that Public Hearing items ‘c’ and ‘d’ will be treated as a simultaneous public hearing and asked Mr. Briggs to address item ‘d’ first.

Planning Manager Jeff Briggs explained the two properties involved in the request: a new project and a project approved in February 2012 at the property addressed then as 434-444 W. Swoope Avenue and re-addressed as 400 W. Swoope which has been reduced to nine units. He explained the issue of garages being used for storage and vehicles being parked in either the driveways or along the street. He stated when the 400 W. Swoope project came in they discussed and required there be open carports in lieu of enclosed garages but as the developer began talking to realtors about marketing the project there were concerns with safety with the open carports so they are back asking to remove the condition of carports only and enable them to construct enclosed garages. He explained that staff is no longer concerned with having garages versus carports.

Further comments and discussion ensued regarding the City’s parking ratios for multi-family residential, and the minimal width standard for garages to make sure vehicles have room to park in the garages.

Lurline Fletcher, 790 Lyman Avenue, spoke against the request.

Mary Randall, 1000 S. Kentucky Avenue, asked the Commission to consider parking when making future decisions about building and addressed the parking issue on her street.

**Motion made by Commissioner McMacken to approve the amendment to the conditional use; seconded by Commissioner Sprinkel.** No other public comments were made. **Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.**

c. **Request of Windermere Winter Park Ventures LLC:** Conditional use approval to build a new two story, 15 unit residential condominium project at 472 and 510 W. Swoope Avenue, zoned R-3 with a variance for a 10’ side setback on the west side in lieu of the required 20’.

Planning Manager Jeff Briggs explained the bulk of this discussion was related to the tightness of the garages and the inability to comfortably open your car doors so the applicant added an additional 8” to each garage so they comply with the P&Z encouragement. The plans in the packet presented this evening reflect the change that the garages have been widened. He spoke about the ordinance going to P&Z next week to establish the minimum standard for garage widths.
Mr. Briggs explained that the new project is requesting three variances: Two relate to the maximum building footprint or building lot coverage and the corresponding maximum impervious lot coverage. The R-3 code maximum is 40% building lot coverage (footprint) of the lot area and 70% impervious coverage. This current design (per the P&Z recommendation) is at 43.7% building lot coverage and 71.3% impervious lot coverage. The design challenge for the developer is that the first floor needs to contain the two car garage area and the ‘living’ spaces of the kitchen and living room. Upstairs are the bedroom spaces. The design challenge is providing enough usable ‘living’ space on the first floor and that results in the building (footprint) lot coverage variance request which totals 1,387 sq. ft. (total over code) or 92 sq. ft. over per unit. The impervious lot coverage variance is the result of the same design challenge and the need for 2.5 parking spaces per unit.

The third variance is a request for a 10’ side setback on the west side of the property in lieu of the required 20’ side setback. The design purposefully puts the smaller, six unit building on the western side requesting the variance versus the longer nine unit building. On that west side is a 10 unit residential project owned by Chris Heidrich who has consented to the variance for the 10’ side setback subject to a condition requiring a bamboo hedge screen.

Motion was made by Commissioner Sprinkel to approve the conditional use request; seconded by Commissioner McMacken. No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

e. Request of Aloma Avenue Holdings LLC:

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE ZONING DESIGNATION OF MEDIUM DENSITY MULTI-FAMILY (R-3) DISTRICT TO OFFICE (O-2) DISTRICT ON THE PROPERTY AT 409 ST. ANDREWS BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title. Planning Manager Jeff Briggs explained that Aloma Avenue Holdings LLC (Dr. Shaw) has acquired the former Signature Pharmacy building at 2304 Aloma Avenue and also the property directly behind, to the south at 409 St. Andrews Blvd. Their intention is to renovate the Signature Pharmacy building into medical office space and to expand the parking onto the 409 St. Andrews Boulevard property that is now zoned residential (R-3). They are requesting rezoning to Office (O-2). He explained that the comprehensive plan already designates this property to be zoned Office and that they will be building the parking lot to code.

Motion made by Commissioner Leary to accept the ordinance on first reading; seconded by Commissioner Sprinkel.
Commissioner Cooper addressed the need for the Planning and Zoning Board to consider buffering and protection of single family homes when commercial is next to residential.

No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried unanimously with a 5-0 vote.

f. RESOLUTION NO. 2129-13: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, RESTATING AND ACCEPTING PRIOR RESOLUTION NO. 1978-07 REGARDING RULES FOR THE CONDUCT OF CITY COMMISSION MEETINGS AND DECORUM, AS WELL AS OTHER SUBJECTS ADDRESSED IN THAT RESOLUTION, AND SUPPLEMENTING AND AMENDING THAT PRIOR RESOLUTION TO ADD TWO SECTIONS, TO COMPLY WITH CHAPTER 2013-227, LAWS OF FLORIDA, AND AUTHORIZING THE CITY MANAGER TO PROVIDE FOR CERTAIN AREAS TO REMAIN OPEN DURING COMMISSION MEETINGS AND TO PROHIBIT PERSONS NOT SPECIFICALLY INVITED BY THE COMMISSION TO ADDRESS THE COMMISSION FROM CERTAIN AREAS.

Attorney Brown read the resolution by title.

Motion made by Mayor Bradley to adopt the resolution with one adjustment to page 3 to change the four minutes to three minutes as adopted in our previous resolution; seconded by Commissioner McMacken.

Commissioner Cooper brought forward an issue she had with Item ‘g’ that says “It is the intent of the Commission that all City boards and subsidiary boards will allow public comment at their meetings except for emergency or ministerial items, and may allow such at quasi-judicial hearings so long as the comment is not used as evidence.” She explained the agreement not to reduce our current level of public participation and our current level has our boards allowing comment on quasi-judicial issues. She stated the ‘may allow’ should read ‘will allow’ at quasi-judicial hearings. The State law allowing public comments was discussed.

Motion made by Commissioner Cooper to adopt the resolution with the change that the word ‘may’ in Item G will be changed to ‘will’ allow such at quasi-judicial hearings; seconded by Commissioner McMacken.

Mayor Bradley addressed the intent under Item “F” to not accept public comments at work sessions as the City’s tradition. Further discussion ensued regarding the use of ‘may’ versus ‘will’ and the City going above and beyond what is necessary regarding the allowance of public comment.

No public comments were made. Upon a roll call vote, Mayor Bradley and Commissioners Leary and Sprinkel voted no. Commissioners Cooper and McMacken voted yes. The motion failed with a 3-2 vote.
Motion made by Mayor Bradley to adopt the resolution, seconded by Commissioner Sprinkel.

Motion amended by Commissioner Cooper that the language we added to Item B that says “and specifically will allow public comment in such matters where the City has traditionally allowed for such including quasi-judicial proceedings”; take that exact same language and add it to the Item G where it talks about the subsidiary boards. Motion was seconded by Commissioner McMacken. Upon a roll call vote, Mayor Bradley and Commissioners Leary and Sprinkel voted no. Commissioners Cooper and McMacken voted yes. The motion failed with a 3-2 vote.

Upon a vote on the main motion to adopt the resolution, Mayor Bradley and Commissioners Leary, Sprinkel and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.

g. AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING SECTION 2-48, GENERAL RULES APPLICABLE TO SUBSIDIARY BOARDS OF THE CITY; PROVIDING FOR, SEVERABILITY, CODIFICATION, CONFLICTS, AND AN EFFECTIVE DATE. First Reading

Attorney Brown read the ordinance by title and explained the intent of the ordinance.

Motion made by Commissioner Leary to accept the ordinance on first reading; seconded by Commissioner Sprinkel.

Motion amended by Commissioner Cooper to bring the language directly from “the City Commission has agreed to the following language and will specifically allow public comment in such matters where the City has traditionally allowed for such including quasi-judicial proceedings”. ... and in this ordinance to amend in Section 2 item U to add that language to the language that says “all subsidiary boards shall allow for public comment in the manner required by Chapter 2013-227, the Laws of Florida”. If we are going to do an ordinance that says we will comply with the Laws of Florida then I would like to say that same language; seconded by Commissioner McMacken.

Discussion ensued regarding the language in the ordinance, the public’s right to speak at meetings, the policy the City has had in place to allow public comments during quasi-judicial hearings which will continue if the language is not changed.

The following wanted to see the language changed from ‘may’ to ‘will’ to make sure that public comments will be allowed during quasi-judicial hearings:

Sally Flynn, 1400 Highland Road
Donna Colado, 327 Beloit Avenue
Mary Randall, 1000 S. Kentucky Ave
Peter Gottfried, 1841 Carollee Lane, commented on the public comment process and felt that the ordinance does not need to be changed because of the policy that public comments are allowed during quasi-judicial hearings.

Commissioner Cooper commented about the lack of a State statute in the past saying the opportunity to be heard need not occur at the same meeting at which the board or Commission takes official action. She addressed the need to allow public comments at every opportunity and to make sure the citizens understand that we are not taking away or implementing a law that will allow citizen’s rights to speak to be put off until another meeting. She asked the Commission again to consider the language of ‘will’.

Mayor Bradley wanted to understand any ramifications of changing the wording from ‘may’ to ‘will for all City boards before making this type of change. **Motion made by Commissioner Cooper to table this ordinance until such time as we have adequate information to make that judgment. Motion failed for lack of a second.**

Commissioner Sprinkel advocated listening to our legal counsel as he provided the wording that meets the new statute and that nothing is being taken away from the public by not changing the wording. She stated if our attorney comes back and determines the language needs to be changed, she will support it. Commissioner Leary stated this currently meets what we already have so he will support it.

**Upon a roll call vote on the amendment, Mayor Bradley and Commissioners Leary and Sprinkel voted no. Commissioners Cooper and McMacken voted yes. The motion failed with a 3-2 vote.**

**Upon a roll call vote to accept the ordinance on first reading, Mayor Bradley and Commissioners Leary, Sprinkel, and McMacken voted yes. Commissioner Cooper voted no. The motion carried with a 4-1 vote.**

A recess was taken from 6:17 p.m. to 6:30 p.m.

h. **Request of Winter Park Hospital: Approval of the final plans for a new four story, five level parking garage, per the Winter Park Hospital Master Plan approved on April 25, 2005.**

Mayor Bradley recused himself from voting and discussion. He completed Form 8B, Conflict of Interest, attached.

Planning and Community Development Director Dori Stone provided background of the Winter Park Master Plan that was approved in 2005. She addressed the approval requested of the four story, five level 640 space parking garage as a component of Phase 2 of the Master Plan as consistent with that Plan and clarifying that this added parking is for existing needs and not for surplus spaces for future
development at this time. She stated that the Planning and Zoning Board approved a larger version of the parking garage and thus did not need to go back to P&Z because of the project request decreasing. Staff recommended approval.

**Motion made by Commissioner Leary to approve the final plans; seconded by Commissioner McMacken for discussion purposes.**

Executive Director Sharon Line Clary, Winter Park Hospital, began the applicant’s presentation by speaking about the demands for hospital services in the community since the year 2000, community touch points/educational support groups, current campus parking, the need for additional parking to help alleviate the overflow parking which crowds the neighborhood streets, and creating traffic hazards, etc.

Administrative Director for Strategic Development Jody Barry for Florida Hospital provided building elevations and color renderings of the proposed parking garage. He noted that they have added a significant amount of exterior architectural elements and lush landscaping.

Attorney Borron Owen, Gray Robinson Law Firm, summarized their request for garage approval to address their current parking needs. He stated they believe they comply with the master plan, the comprehensive plan and the Land Development Code. He asked approval of the garage to move forward. He asked for time after public comment and discussion to address any questions.

Commission discussion ensued and questions were asked by the Commission regarding the 2005 master plan that was adopted in accordance with the City’s comprehensive plan, the parking needs of the hospital, surface versus structured parking, the 2005 staff report, the need to allow for public process/notice to surrounding property owners, and documents included in the 2005 approval. Ms. Stone answered questions with Attorney Brown providing legal counsel regarding documents that are currently in the City’s file.

Commissioner Cooper spoke about the need for the parking garage at the hospital. She asked questions and expressed concerns about the public process followed, her belief that this project exceeds the 45% Floor Area Ratio allowable in O-1 zoning, the language from the staff report when the Master Plan was approved in 2005 that this was a conceptual approval and the need for city notice for all other buildings that come forward.

Commissioner Leary asked that legal counsel provide guidance whether appropriate process has been followed. Attorney Brown stated that given the record and the manner in which it was developed starting with the Master Plan in 2005, he believed that a reasonable Commission has sufficient information to determine if they have established the current needs for the increased parking spaces that the Commission has enough information where you could conclude that allowing the garage with any compatibility modifications; that your prospective approval would
be consistent with the 2005 master planning process as embedded into the Comprehensive Plan in 2009. Other comments were made regarding Commissioner Cooper’s concerns. Ms. Stone responded regarding the FAR. The notice provided for this hearing after the P&Z hearing was addressed by Ms. Stone.

Attorney Owen addressed Commission questions related to the process, previous approvals granted to the Hospital, and noted that the current process they are following is according to the recommendations to the City Commission from Planning and Zoning Board in April 2005. He concluded that they are entitled to a parking garage at that location and can have up to 1,500 parking spaces in Phase 2 but will have 1,171 spaces. He stated they believe are following process. As to refinements in the process and for code changes needed to clarify the status of Master Plans, he committed that they will be part of the solution and that after the garage is approved they will sit with City staff and each Commissioner individually and work through this process on a go forward basis.

The following persons spoke in favor of the request:

Tom Yochum, 1131 Via Lugano
Peter Gottfried, 1841 Carollee Lane
Jay Plotkin, M.D., 1733 Lake Berry Drive
Harold Barley, 1671 Oakhurst Avenue
Ginger Poynter, 350 Carolina Avenue
Sharon Jallad, 1830 Fawsett Road
Patrick Chapin, CEO, Winter Park Chamber of Commerce
Roland Lee, 1801 Summerfield Road

Upon a roll call vote, and Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. Mayor Bradley recused himself from voting. The motion carried unanimously with a 4-0 vote.

City Commission Reports:

a. Commissioner Leary

Commissioner Leary echoed the moment of silence for Mary Rumberger who will be missed and addressed the success of the dog event. He spoke about the issue of additional parking to test out during the holiday season; and his concerns with the parallel parking at Morse Boulevard/New York Avenue and the difficulties at that intersection and the need to remove this from the approved parking plan. He believed we can find additional parking in the West Meadow. There was a consensus to bring this item back for a future discussion.
b. Commissioner Sprinkel

Commissioner Sprinkel spoke about wanting information from the YMCA regarding swim vouchers. They provided over 850 swim vouchers to students. She addressed the dog event that was successful.

She also agreed with Mr. Weldon’s comments to commend our previous Commission and wanted to entertain that idea.

She spoke about trying to pass laws to prohibit people from making poor decisions about what they put in their garage and where they park their car, etc. and that we need to look at other ways to deal with this other than asking ourselves to change our rules about these types of issues.

c. Commissioner Cooper

Commissioner Cooper summarized the upcoming events in the City to include the Women’s Club Antique Show, the Preservation Capen House party, and the Veteran's Day ceremony. She also spoke about when the Commission approves new development that they need to try and consider the consequences of the concessions they make.

d. Commissioner McMacken – no items.

e. Mayor Bradley

Mayor Bradley brought forward an item regarding the Waste Pro exclusive franchise regarding roll off (large dumpsters) and garbage containers at construction sites. He spoke about the possibility of a substantial cost increase if you do not use Waste Pro containers. He asked that this be discussed at the next agenda and for staff to bring back options to re-open the contract.

He addressed the Peacock Ball this weekend.

The meeting adjourned at 7:58 p.m.
### Piggyback contracts

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Item</th>
<th>Background</th>
<th>Fiscal Impact</th>
<th>Motion</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Heart Utilities of Jacksonville, Inc.</td>
<td>Piggyback the City of Jacksonville Beach contract for Installation of Underground Electric Infrastructure</td>
<td>Total expenditure included in FY14 approved budget is $1,500,000.00.</td>
<td>Commission approve piggybacking the City of Jacksonville Beach Contract No. 1213-03 and authorize the Mayor to execute the piggyback contract along with a Purchase Order for payment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Central Environmental Services, Inc.</td>
<td>Piggyback the City of Orlando contract for Demolition of Residential and Commercial Structures</td>
<td>Total expenditure included in FY14 approved budget.</td>
<td>Commission approve piggybacking the City of Orlando Contract No. IFB10-0003 and authorize the Mayor to execute the piggyback contract along with a Purchase Order for payment.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The City of Jacksonville utilized a competitive bidding process to award this contract. The contract term expires on February 6, 2016.

The City of Orlando utilized a competitive bidding process to award this contract. The contract term expires on March 17, 2015.

### Contracts

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Item</th>
<th>Background</th>
<th>Fiscal Impact</th>
<th>Motion</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. NCH Corporation DBA ChemSearch</td>
<td>Sole Source Contract to install and maintain Bio-Amp Odor Control Systems for Lift Station Nos. 3, 11, 33, and 95.</td>
<td>Total expenditure included in FY14 approved budget is $14,400.</td>
<td>Commission approve sole source contract with NCH Corporation and authorize the Mayor to execute the contract along with a subsequent Purchase Order.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. CJ’s Sales &amp; Service of Ocala, Inc.</td>
<td>Amendment 2 for IFB-20-2011 Auxiliary Generator Services</td>
<td>Total expenditure included in approved FY14 budget</td>
<td>Commission approve contract renewal with CJ’s Sales &amp; Service of Ocala, Inc. and authorize the Mayor to execute Amendment 2.</td>
<td></td>
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</tr>
</tbody>
</table>

The NCH Corporation DBA ChemSearch is a sole source vendor.

The City utilized a formal solicitation process to award this contract. The initial contract was approved on November 7, 2011. The contract term was for a period of one (1) year with a total of (4) one year renewal options, not to exceed five (5) years in total. The current contract will expire November 26, 2013.
<table>
<thead>
<tr>
<th></th>
<th>Company Name</th>
<th>Contract Details</th>
<th>Expenditure Details</th>
<th>Approval Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Ardaman &amp; Associates, Inc.</td>
<td>Amendment 1 for RFQ-2-2012 Continuing Contract for Professional, Architectural &amp; Engineering Services (Geotechnical Services)</td>
<td>Total expenditure included in approved FY14 budget</td>
<td>Commission approve contract renewal with Ardaman &amp; Associates, Inc. and authorize the Mayor to execute Amendment 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>The City utilized a formal solicitation process to award this contract. The City Commission approved award to Ardaman &amp; Associates, Inc. on November 26, 2012. The contract term was for a period of one (1) year with a total of (4) one year renewal options, not to exceed five (5) years in total. The current contract will expire November 25, 2013.</td>
</tr>
<tr>
<td>6</td>
<td>Universal Engineering Sciences</td>
<td>Amendment 1 for RFQ-2-2012 Continuing Contract for Professional, Architectural &amp; Engineering Services (Geotechnical Services)</td>
<td>Total expenditure included in approved FY14 budget</td>
<td>Commission approve contract renewal with Universal Engineering Sciences and authorize the Mayor to execute Amendment 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>The City utilized a formal solicitation process to award this contract. The City Commission approved award to Universal Engineering Sciences on November 26, 2012. The contract term was for a period of one (1) year with a total of (4) one year renewal options, not to exceed five (5) years in total. The current contract will expire November 25, 2013.</td>
</tr>
</tbody>
</table>
subject

Orange County/City of Winter Park Interlocal Utility Agreement

motion | recommendation

Approve the execution of the agreement

background

There are nine areas in which either the City is servicing water/sewer customers in Orange County’s service territory or Orange County is serving customers within our service territory. This situation developed either as a result of capacity issues or infrastructure issues back in the 80’s.

Over the years the situations that required these customer swaps have been resolved. Both Orange County staff and City staff would like to swap the customers back as the areas require additional administrative work each month to handle billings, etc.

alternatives | other considerations

The only other alternative would be to let the situation remain status quo.

fiscal impact

The net effect will be a loss in water and sewer revenues of approximately 19K annually which is about 7/100’s of 1% of the gross revenue of the system.

long-term impact

N/A

strategic objective

N/A
ORANGE COUNTY/CITY OF WINTER PARK
INTERLOCAL UTILITY AGREEMENT

THIS INTERLOCAL AGREEMENT is made and entered into this _____ day of
___________, 2013, by and between ORANGE COUNTY, a political subdivision of the State
of Florida, whose address is 201 South Rosalind Avenue, Orlando, FL 32801, hereinafter
referred to as "COUNTY," and the CITY OF WINTER PARK, a Florida municipal
corporation, whose address is 401 Park Avenue South, Winter Park, Florida 32789, hereinafter
referred to as "CITY."

W I T N E S S E T H:

WHEREAS, the parties entered into the “City of Winter Park/Orange County Water and
Wastewater Service Territorial Agreement” (“Territorial Service Agreement”), dated January 12,
1987, to govern the division of responsibility for water and wastewater service between CITY
and COUNTY; and

WHEREAS, the parties desire for Territorial Service Agreement to remain in effect and
govern the provision of water and wastewater service for their respective jurisdictions; and

WHEREAS, COUNTY is the successor in interest to that private utility formerly known
as Southern States Utilities, Inc., which was a party to various utility agreements with certain
developers and CITY; and
WHEREAS, the parties intend to delegate to certain staff members of COUNTY and CITY the ability to terminate or modify by letter agreement those various utility agreements executed by certain developers, CITY, private utilities and/or COUNTY, irrespective of the required termination dates specified in the termination provisions of those agreements; and

WHEREAS, execution of this Agreement will mutually benefit the parties and their respective residents.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other valuable consideration, the sufficiency of which is acknowledged by the parties hereto, it is mutually agreed as follows:

1. RECITALS.

Each and all of the foregoing recitals are hereby incorporated herein and declared to be true and correct.

2. AUTHORITY OF STAFF

Those staff members designated by the City Manager of CITY or County Manager Administrator of COUNTY shall have the authority to enter into letter agreements setting forth the terms by which the following utility agreements will be terminated or modified, irrespective of the required termination dates specified in the termination provisions of those agreements:

a. For Hunter’s Ridge, Agreement between Southern States Utilities, DCB Investment Company, and City of Winter Park, dated December 7, 1984, recorded at Original Record Book 3839, Page 1253;

b. For Bradford Cove, Orange County Utilities, as assignee of Southern States Utilities, Inc. Wholesale Water Agreement with City of Winter Park, dated November 23, 1983;
c. For University/Goldenrod, Agreement between Orange County Utilities, as assignee of Southern States Utilities, Inc., DCB Investment Company, and City of Winter Park, dated April 12, 1985;

d. For Laurel Springs and Fontana Apartments, Agreement between Orange County Utilities, as assignee of Southern States Utilities, Inc., Tompkins Land & Housing, Inc. and City of Winter Park, dated September 1986;

e. For Crane’s Creek, Letter Agreement – Wastewater System Interconnect/Cranes Creek Subdivision between Orange County Utilities and City of Winter Park, dated September 6, 2007.

3. Effectiveness of 1987 Agreement.

This Agreement does not in any way affect the City of Winter Park/Orange County Water and Wastewater Service Territorial Agreement dated January 12, 1987, which remains unchanged.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement on the date and year first above written.

/signatures to follow/
WITNESSES:
______________________________
________________________________
________________________________
(print)
______________________________
________________________________
________________________________
(print)

CITY OF WINTER PARK, FLORIDA

By: ____________________________
    Kenneth W. Bradley, Mayor

ATTEST:

By: ____________________________
    Cynthia S. Bonham, City Clerk

Date: ____________________________

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _______ day of
______________, 20___, by Kenneth W. Bradley, Mayor of the City of Winter Park, Florida,
(check one) □ who is personally known to me or □ who produced
_______________________________ as identification.

________________________________
Notary Public – State of Florida
Print Name: ________________________
My Commission expires:
ORANGE COUNTY, FLORIDA

By:_________________________________

Teresa Jacobs, Orange County Mayor

______________________________

ATTEST: Martha O. Haynie, County
Comptroller as Clerk of the Board of County
Commissioners

______________________________

By:_________________________________

Deputy Clerk

Date: ____________________________

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ______ day of
____________, 20___, by Teresa Jacobs, Mayor of Orange County, Florida, (check one) □ who
is personally known to me or □ who produced ______________________________ as
identification.

________________________________
Notary Public – State of Florida
Print Name:______________________
My Commission expires:
Winter Park Electric Power Supply – Contract with Covanta Energy and Marketing, LLC

Authorize the Mayor to execute the Electric Power Purchase And Sale Agreement by and between The City Of Winter Park, Florida and Covanta Energy Marketing, LLC

At its June 24 meeting, the City Commission approved a go forward power supply portfolio which consisted must take power supply resources e.g. 10 MW from Covanta Energy and 10 MW from the City of Gainesville Regional Utilities (GRU). Additionally the power supply portfolio included photovoltaic solar, 23 MW of contract capacity from Florida Power & Light company (FPL) during 2014, and approximately 18.5 MW of all requirements power supply from the Orlando Utilities Commission (OUC), which will be delivered via a future distribution interconnection with the City of Winter Park’s primary distribution system for a term of 6 years. The agreement with Clean Footprint, LLC (solar) was approved at the Jul 22, City Commission meeting. The agreements with FPL and OUC were approved at the August 12, City Commission meeting. The City of Gainesville Regional Utilities is currently in turmoil involving the construction of a biomass generating facility and a very expensive purchased power agreement with the plant’s owner. The City of Gainesville has made an offer to purchase the plant. As a result of the turmoil, GRU’s General Manager resigned last week. In view of these circumstances, staff has requested that negotiations with GRU be placed on hold for a period of 6 months and a future recommendation on this portion will be forthcoming.

Taken together, the elements of the power supply portfolio approved by the City Commission at its June 24th meeting are expected to provide reliable service to our customers at very favorable rates. The attached contract with Covanta Energy and Marketing is another piece of the desired power supply portfolio.

Under the contract, Covanta Energy will begin providing 10 MW of capacity from its waste to energy plant in Lake County beginning January 1, 2015. Capacity provided by Covanta will be delivered to the City via the high voltage transmission systems of others. The current Seminole
agreement (approximately 60 MW) will expire at the end of 2014. In addition to the 10 MW from Covanta, staff expects that GRU and/or another supplier will begin providing another 10 MW of capacity. Capacity from FPL and/or OUC will be adjusted in the future to reflect these changes.

The expected cost of power supply from the portfolio is shown on the following table. It is interesting to note that the $71.97/MWh estimated cost of wholesale power in 2019 is approximately the same price that the City paid for its wholesale power immediately following the formation of the its electric system back in June 2005.

### Estimated all in cost of Wholesale Power

<table>
<thead>
<tr>
<th>Year</th>
<th>Cost of Power $/MWh</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>$64.64</td>
</tr>
<tr>
<td>2015</td>
<td>$61.34</td>
</tr>
<tr>
<td>2016</td>
<td>$63.38</td>
</tr>
<tr>
<td>2017</td>
<td>$66.72</td>
</tr>
<tr>
<td>2018</td>
<td>$69.56</td>
</tr>
<tr>
<td>2019</td>
<td>$71.97</td>
</tr>
</tbody>
</table>

The estimated cost of power indicates an expected decrease in the cost of power in 2015 compared to 2014. This is a result of replacing the Seminole contract with less expensive options such as OUC and FPL.

**Legal review**

The City Attorney has approved the Electric Power Purchase And Sale Agreement with Covanta as to legal form and sufficiency.

**Attachments:** Electric Power Purchase And Sale Agreement By And Between The City Of Winter Park, Florida And Covanta Energy Marketing, LLC
THIS ELECTRIC POWER PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered into as of this __ day of November, 2013 (“Effective Date”), by and between the City of Winter Park, Florida, a Florida municipal electric utility organized and existing under the laws of the State of Florida (“Buyer”) and Covanta Energy Marketing, LLC, a limited liability corporation organized and existing under the laws of the State of Delaware and authorized to do business in the state of Florida (“Seller”). Buyer and Seller may be referred to herein individually as a “Party” or collectively as the “Parties.”

WHEREAS, Buyer owns and operates an electric distribution system within the State of Florida and is engaged in the purchase, distribution and sale of electric capacity and energy to its customers; and,

WHEREAS, Seller owns and/or operates waste-to-energy facilities that produce electric capacity and energy within the State of Florida that are electrically interconnected with and operate in parallel with the Florida electric grid; and,

WHEREAS, Seller currently sells firm energy and capacity to Duke Energy Florida (formerly Florida Power Corporation) pursuant to a contract that expires on July 1, 2014; and,

WHEREAS, Seller agrees to sell and Buyer agrees to purchase ten (10.0) MWs of electric capacity and energy from Seller’s Facilities or from Third Party Sources secured by Seller, subject to the terms, conditions and prices herein; and,

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, Buyer and Seller hereby agree as follows:

1. DEFINITIONS: Terms used herein with initial capital letters, and not otherwise textually defined, shall have the definitions ascribed to them in this Section 1:

“As Available Energy” means electrical energy available for sale by Seller prior to the Commercial Operation Date for which there is no Seller commitment or obligation as to the quantity, time, or reliability of delivery.
“Billing Period” means a period of time coinciding with a calendar month, during which electricity delivered by Seller is measured for the purpose, among others, of calculating payments due under this Agreement and rendering invoices for same to Buyer, and may include partial months, if any.

“Business Day” means, whether or not capitalized, all calendar days other than Saturdays, Sundays or holidays.

“Buyer’s Scheduling Agent” means Florida Power & Light Company unless Buyer identifies a successor agent or agents by written notice to Seller in accordance with Section 28.

“Capacity Factor” means in each monthly Billing Period the number, expressed as a percentage rounded to the nearest two (2) decimal points, that is the sum of Contract Energy delivered by Seller pursuant to this Agreement during [REDACTED] divided by four hundred (400); provided, however, that: (i) delivered Contract Energy used for purposes of this calculation may not exceed ten (10) MWHr in any such 40 On Peak Hours; and, (ii) each of the 40 On Peak Hours that occurs during a Scheduled Outage shall be assigned a value of 9.25 MWHr of delivered Contract Energy.

“Capacity Payment” means the amount due to Seller from Buyer as determined for each monthly Billing Period during the Term, including the Extended Term if applicable, in accordance with Exhibit B.

“Capacity Payment Adjustment” means, for each monthly Billing Period [REDACTED]: (i) if negative, the reduction in the Capacity Payment prior to crediting of any applicable escrow account balance; or, (ii) if positive, the amount escrowed into an account held by Buyer and applied for Seller’s benefit, all in accordance with paragraph (2) of Exhibit B.

“Capacity Payment Rate” means $18,750 per MW per Month.

“Change in Law” means: (i) the adoption, promulgation or modification, after the Effective Date, of any applicable constraint, order or judgment of any Federal, Florida or local court, administrative agency or other governmental, quasi-governmental or regulatory body or agency, materially affecting the operation, maintenance or financial performance of a Facility or the performance of a Party’s obligations hereunder that are more burdensome than the most stringent requirements in effect as of the Effective Date; or, (ii) the imposition of any material conditions in connection with the issuance, renewal or modification of any official permit, license or approval after the Effective Date, which establishes requirements materially affecting the
operation, maintenance or financial performance of a Facility or the performance of a Party’s obligations hereunder that are more burdensome than the most stringent requirements in effect as of the Effective Date; including without limitation a Party’s inability, in spite of reasonable commercial efforts, to obtain or maintain necessary authorizations, approvals or permits from, any governmental agency or quasi governmental or body; provided, however, that: (i) a change in any tax law in connection with a tax on income shall not constitute a Change in Law; and, (ii) a change in any law by Buyer, in its capacity as a local governmental entity, may not be claimed by Buyer as a Change in Law.

“Commercial Operation Date” means the date designated in Seller’s Commercial Operation Date Notice as the date on which Seller will commence the sale and delivery of the Contract Capacity and Contract Energy to Buyer under this Agreement. Seller shall deliver such notice to Buyer at least one hundred eighty (180) days prior to the designated date; provided, that: (i) the Seller may only designate either January 1, 2015 or January 1, 2016 as the Commercial Operation Date; and, (ii) if Seller fails to timely provide such notice, the Commercial Operation Date shall be January 1, 2016.

“Commercial Operation Date Notice” means Seller’s written notice to Buyer designating the Commercial Operation Date as either January 1, 2015 or January 1, 2016, which notice must be delivered to Buyer at least one hundred eighty (180) days prior to such designated date, if any, on which the sale and delivery of the Contract Capacity and Contract Energy to Buyer hereunder will commence.

“Contract Capacity” means 10 MW of electrical capacity to be delivered by Seller to Buyer at a Point of Interconnection from the Lake Facility, the [REDACTED], a Third Party Source, or a combination thereof beginning on the Commercial Operation Date; provided, however that actual capacity delivered to Buyer at a Point of Interconnection will vary daily and hourly in accordance with the physical output and operating condition of a Facility or the Facilities and may be less than the Contract Capacity in any hour.

“Contract Energy” means that electrical energy produced by the Contract Capacity, in MWh, that is delivered by Seller to Buyer pursuant to this Agreement beginning on the Commercial Operation Date.

“Contract Year” means each of the ten (10) consecutive periods of twelve (12) months during this Agreement, the first of which such 10 consecutive periods shall commence on the
Commercial Operation Date including, upon timely written notice of Buyer pursuant to Section 3 (B), the two (2) additional consecutive periods of twelve (12) months comprising the Extended Term, unless otherwise agreed to by the Parties in writing.

"Day" means, whether or not capitalized, all calendar days including weekdays, weekends and holidays.

"Effective Date" has the meaning set forth in the initial paragraph of this Agreement.

"Energy Payment" means the payment to Seller as determined in accordance with Section 6.

"Energy Payment Rate" means the amount in dollars per MWh as specified in Exhibit A, that Buyer will pay to Seller for each and every MWh delivered to a Point of Delivery during each monthly Billing Period.

"Environmental Attributes" means, included but not limited to, any existing or any future credit, benefit, emissions reduction, fuel or air quality credit, or emissions reduction credit, offset, or allowance, or other tradable and transferable indicia, howsoever entitled, named, registered, created, measured, allocated, validated, hereafter recognized or deemed of value (or both) by any person, entity, including any business, governmental or other entity, representing any measurable and verifiable aspect, claim, characteristic or benefit identified, attributed to, or associated with the direct or indirect avoidance of the use or emission of any gas, chemical, particulate matter, soot, or other substance, soil, water, air quality, environmental characteristic, or as otherwise defined by any person, or as agreed by the Parties, attributable to the Facility or to any energy produced by the Facility during the Term, including (but not limited to) one or more of the following: nitrogen oxides (NOₓ), sulfur oxides (SOₓ), carbon monoxide (CO), carbon dioxide (CO₂), mercury (Hg), methane (CH₄) and any other greenhouse gas or chemical compound.

"Event of Default" has the meaning set forth in Section 24 of this Agreement.

"Exhibit(s)" shall mean Exhibits A and/or Exhibit B to this Agreement that are attached hereto and made a part hereof.

"Extended Term" has the meaning set forth in Section 3 of this Agreement.
“Facilities” means the Lake Facility, the [REDACTED] or Third Party Source in a combination of two or more and interchangeably.

“Facility” means the Lake Facility, the [REDACTED] or a Third Party Source.

“Force Majeure” means an event or circumstance that prevents or unduly frustrates the performance by a Party of its obligations under this Agreement (other than the duty to make payments when due, which shall not be excused by Force Majeure) which is not within the reasonable control of, or the result of the negligence of, such Party and which by the exercise of due diligence such Party is unable to overcome or avoid. Force Majeure includes, without limitation, hurricanes, tornadoes, flood, lightning, drought, earthquake, fire, explosion, terrorist attack, civil disturbance, strikes, acts of God, acts of the public enemy, orders, government directives, restraints and requirements of the local, state or federal government and local state or federal governmental agencies, civil or military, or any other cause beyond a Party's control. Unless directly caused by Force Majeure events or circumstances, the following shall not be considered a Force Majeure: (i) events affecting the cost of operating any generating facility, (ii) changes in market conditions which cause the price of energy or capacity to fluctuate including, without limitation, weather, fuel prices and supply and demand, or (iii) the inability of a Party to make a profit or avoid a loss in performing its obligations under this Agreement.

“Good Operating Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the owners and operators of waste-to-energy facilities in connection with the operation of an electric generating waste to energy resource during the relevant time period or any of the practices, methods and acts, which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made in connection with the operation of an electric generating waste to energy resource, could have been expected to accomplish the desired result at a reasonable cost consistent with applicable law, reliability, safety, economy, environmental protection and expedition; provided, however, that Good Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others but rather to be acceptable practices, methods and acts generally accepted by the waste-to-energy industry in the southeast United States.

“Interest” has the meaning set forth in Section 12 of this Agreement.

“Interconnection Agreement(s)” means as to the Lake Facility, Seller’s agreement with Duke
Energy Florida; and, as to the [REDACTED], Seller’s agreement with Florida Power & Light Company, each of which provide parallel electrical interconnection of the respective Facility to Florida’s transmission system for electricity delivery from Seller to Buyer.

“Interconnection Facilities” means all of the equipment and structures in place and necessary to allow Seller’s electric generators, or those of a Third Party Source, to operate in parallel with the Florida electric system and through which Seller delivers the Contract Capacity and Contract Energy to Buyer at a Point of Interconnection.

“Lake Facility” means the Covanta Lake, Inc. 530 ton per day waste-to energy facility located at 3830 Rogers Industrial Park Rd, Okahumpka, FL 34762, with a electric generating capacity of approximately 15.00 MW gross and net export capability of approximately 12.0 MW, owned and operated by Covanta Lake, Inc.

“Non-Energy Attributes” means Environmental Attributes and Renewable Energy Credits.

“Notice of Extension” means Buyer’s timely written notice to Seller that it is extending this Agreement for an additional consecutive period of two (2) Contract Years pursuant to Section 3.

“Notice of Termination” means Seller’s timely written notice to Buyer that it is exercising its right to terminate, and is therefore terminating this Agreement pursuant to Section 3 herein.

“On Peak Hours” mean [REDACTED]

“Operating Representative” is that person most recently identified and designated by a Party to act on its behalf in accordance with Section 25.

“Point of Delivery” means the electrical interconnection point at which Contract Capacity and Contract Energy sold by Seller hereunder is delivered to the Duke Energy Florida system.

“Point of Interconnection” means as to (i) the [REDACTED], the electrical interface located in [REDACTED] County, Florida where the [REDACTED] is electrically interconnected in parallel with Florida Power & Light Company; (ii) the Lake Facility, the electrical interface located in Okahumpka, in Lake County, Florida where the Lake Facility is electrically interconnected in parallel with Duke Energy Florida; and, (iii) a Third Party Source the point at which such source it is connected to the Florida transmission system. When Seller simultaneous delivers electric capacity and energy to Buyer from any combination of the [REDACTED], the Lake Facility or a Third Party Source, the term Point of Interconnection will include the combination thereof.
“Renewable Energy Credits” means any existing or any future credit, benefit, renewable energy certificate, green-tag, or other tradable and transferable indicia, howsoever entitled, named, registered, created, measured, allocated, validated, hereafter recognized or deemed of value (or both) by any person or entity, including any person, business, governmental or other entity, representing any measurable and verifiable aspect, claim, characteristic or benefit identified, attributed to, or associated with the generation, purchase, sale, delivery or use of a quantity of electric energy by the Facility during the Term that (a) corresponds to the displacement of an equal quantity of electric energy calculated in MWh from conventional fossil fuel generation resources or (b) represents or is recognized by any person or entity, including any business, governmental or other entity as representing, an equal quantity of renewable, green or sustainable electrical energy, that in either case (a) or (b), could qualify or does qualify for application toward compliance with any local, state, federal, regional or international renewable energy portfolio standard or could be sold or transferred in any voluntary market for renewable energy credits or supplies.

“Scheduled Outage” means a planned interruption of Seller’s energy production capability that affects Seller’s ability to provide the Contract Capacity to Buyer and that has been scheduled at least sixty (60) days before the first day of each Contract Year and in accordance with Section 4.

“Term” has the meaning set forth in Section 3 of this Agreement.

“Termination Option Payment” means Seller’s lump sum payment of two hundred thousand (200,000) dollars to Buyer in accordance with the provisions of Section 8 (B)(v).

“Third Party Source” means a capacity and energy source secured by Seller, other than the Dade Facility or the Lake Facility, to supply capacity and energy to Buyer pursuant to this Agreement.

“Transmission Service Provider” means Duke Energy Florida as to the Lake Facility; Florida Power & Light Company and Duke Energy Florida as to the [REDACTED]; and all intervening transmission system owners necessary to deliver capacity and energy from a Point of Interconnection to the Duke Energy Florida transmission system as to a Third Party Source.

2. PURCHASE AND SALE:

(A) Beginning on the Commercial Operation Date, Seller agrees to sell and Buyer agrees to purchase the Contract Capacity and Contract Energy delivered by Seller to a Point of
Interconnection. Buyer shall be responsible for all required scheduling, line losses and costs, if any, from the Seller’s Point of Interconnection of the Lake Facility. Seller shall be responsible for arranging delivery of Contract Capacity and Contract Energy from the Point of Interconnection to a Point of Delivery and for all associated wheeling charges, line losses, service charges, and other applicable fees and costs necessary for the delivery of all or any of the Contract Capacity and Contract Energy, at Seller’s sole option, from the Point of Interconnection of the [REDACTED] or a Third Party Source to the Point of Delivery.

(B) During the time period beginning on July 1, 2014 and continuing through the day immediately prior to the Commercial Operation Date, Seller may produce As Available Energy for sale and delivery. During such time period, Buyer hereby releases Seller from, and relieves Seller of, all obligations to Buyer for all As Available Energy and agrees that during such time period, Seller may sell and deliver As Available energy to any purchaser(s) in its sole and absolute discretion.

(C) Beginning on the Commercial Operation Date and continuing through the Term, including the Extended Term if applicable: (i) Buyer shall have the exclusive right to purchase all electrical capacity and energy produced by the Lake Facility; and (ii) Seller shall not sell capacity or energy produced by the Lake Facility to a third party or parties without Buyer’s prior written consent.

(D) For purposes of this Agreement, Seller owns and retains all right, title and interest to one hundred percent (100%) of the Non-Energy Attributes of the Lake Facility; the [REDACTED]; and, any Third Party Source. No right, title or interest in such Non-Energy Attributes are intended to be, or shall be deemed to be, transferred to Buyer as a result of this Agreement.

3. TERM AND TERMINATION:

(A) The Term of this Agreement shall commence on the Effective Date and shall remain in force and effect for a period of ten (10) Contract Years following the Commercial Operation Date, unless: (i) earlier terminated in accordance with the applicable provisions hereof; (ii) extended by Buyer in accordance with Section 3 (B); or (iii) otherwise extended or terminated by the mutual agreement of the Parties pursuant to Section 33.
(B) Buyer may, in its sole and absolute discretion, add two (2) additional consecutive Contract Years to the Term (“Extended Term”), by delivering its Notice of Extension to Seller at least one hundred eighty (180) day prior to the end of the tenth Contract Year.

(C) Anything to the contrary herein notwithstanding, Seller may, in its sole and absolute discretion, unilaterally terminate this Agreement at any time prior to the Commercial Operation Date by providing written Notice of Termination to Buyer at least one hundred eighty (180) days prior to January 1, 2016, whereupon this Seller will be fully and forever released by Buyer of all liability and responsibility hereunder, and this Agreement shall be thereupon be rendered of no further legal force or effect upon Seller.

(D) Upon Seller’s timely delivery of a Notice of Termination to Buyer, Seller shall thereupon be fully relieved by Buyer of any and all claims, causes of action, obligations or responsibilities to Buyer whatsoever relating to electrical energy, capacity or both produced by a Facility or Facilities.

4. FACILITY OPERATION AND MAINTENANCE:

(A) Beginning on the Commercial Operation Date, Seller shall operate and maintain the Lake and Facilities, as applicable, in accordance with Good Operating Practice for waste-to-energy facilities and otherwise in accordance with this Agreement. No later than sixty (60) days prior to the Commercial Operation Date, the Parties shall meet to discuss operational issues related to the Agreement, including, but not limited to, the exchange of contact information for weekly projections under this Section. After the Commercial Operation Date, Seller shall provide to Buyer a monthly advance projection of the expected capacity and energy from one or more Facility, as appropriate, for the following month. Seller shall provide such projection to Buyer during the first week of each month for the following month. Seller shall promptly advise Buyer of any change in condition that materially alters Seller’s projection as to the availability of a Facility.

(B) Twice during each Contract Year, once during the months of December, January or February and once during the months of May, June or July, Seller shall conduct a performance test demonstrating a fifteen percent (15%) reserve capability for a period of two (2) hours, at times mutually agreeable to the Parties. If a performance test fails to demonstrate the reserve
capability, Seller shall be entitled to conduct, within a reasonable period of time, up to two (2) additional performance tests to demonstrate such capability.

(C) At least sixty (60) days prior to the Commercial Operation Date, and thereafter at least sixty (60) days before the beginning of each succeeding Contract Year, Seller shall provide Buyer with its proposed Scheduled Outages for such Contract Year. Such schedule shall be based on Good Operating Practice for waste-to-energy facilities and manufacturers’ recommendations.

(i) Except as provided below, Scheduled Outages in each Contract Year shall be limited to an aggregate derating of Seller’s Facilities output of 6,500 MWhrs.

(ii) Derating shall be the difference between 10 MW and the expected output of the Facilities during each hour of the Schedule Outage.

(iii) Twice during the Term of the Agreement, Seller shall be permitted a 5,500 MWhr increase in the derating of output of the Facilities (in addition to the derating permitted under (i), above, to accommodate turbine-generator inspections and repairs.

(iv) Scheduled Outages shall be permitted only during the months of March, April, October and November.

(D) If Buyer reasonably objects to the Scheduled Outage schedule proposed by Seller, Buyer shall notify Seller thereof within thirty (30) days after receipt of Seller’s proposed schedule, stating in detail the reasons for its objection and providing a proposed alternative Scheduled Outage schedule. Seller shall consider Buyer’s objections and proposed alternative schedule reasonably and in good faith, and shall develop, to the extent practicable and consistent with Good Operating Practice, a revised Scheduled Outage schedule. Seller shall make good faith efforts to comply with Buyer’s proposal but shall not be obligated to revise its proposed Scheduled Outages.

(E) Seller shall provide Buyer with prompt notice of any unscheduled outage and with a spoken estimate (followed by written confirmation via facsimile or electronic mail) of the duration and scope of each such outage as soon as practical after the occurrence thereof.

5. **DETERMINATION OF DELIVERED ENERGY:** Energy purchased from Seller by Buyer during each Billing Period shall be those amounts in MWh (or fractions thereof, rounded
to two decimal places) that is delivered to a Point of Interconnection by Seller during such Billing Period as measured by existing meters at the Lake Facility and the pursuant to Section 9, or, for Third Party Sources, as may be mutually agreed by the Parties; provided that, deliveries from the of Third Party Sources shall be adjusted for applicable line losses, if any, to the Point of Delivery.

6. **MONTHLY PAYMENTS TO SELLER:**

   (A) Subsequent to the Commercial Operation Date Buyer shall pay to Seller monthly, the Capacity Payment calculated and adjusted as applicable in accordance with Exhibit B for each monthly Billing Period during the Term, including the Extended Term if applicable.

   (B) Subsequent to the Commercial Operation Date Buyer shall pay to Seller monthly, the “Energy Payment” as calculated in accordance with the provisions of this Section and Exhibit A, in each Billing Period during the Term, including the Extended Term if applicable. The Energy Payment shall be equal to the product of the number of MWhs (or fraction thereof, rounded to two decimal places) in the aggregate that are delivered to Buyer at a Point of Interconnection, as measured pursuant to Section 5, during the Billing Period times the applicable Energy Payment Rate for the appropriate Contract Year.

7. **NO THIRD PARTY RIGHTS:** Nothing herein shall be construed to constitute, create, be interpreted as creating, or be deemed to have created, any standard of care, duty, responsibility or liability, on the part of either the Buyer or the Seller, to any third person.

8. **CONDITIONS PRECEDENT:**

   (A) **Seller’s Conditions Precedent.** The obligations of Seller under this Agreement are contingent upon the occurrence of each of the following (or Seller’s written waiver thereof):

   (i) By January 1, 2014, the City Commission of the City of Winter Park shall have approved this Agreement without change or modification, and Seller shall have delivered a fully executed copy of same to Buyer; and,

   (ii) By January 1, 2014, Seller shall have approved this Agreement without material change or modification; and,

   (iii) At least one hundred eighty (180) days prior to the Commercial Operation Date, Seller shall have entered into a new or amended Interconnection Agreement with the Duke Energy Florida for the Lake Facility; and,
(iv) By January 1, 2014, Seller shall have received confirmation that Duke Energy Florida has agreed to provide those services required pursuant to this Agreement, if any; and,

(v) By January 1, 2014, Buyer shall have received all required approvals and signatures required by Buyer.

(B) **Buyer’s Conditions Precedent.** The obligations of Buyer under this Agreement are contingent upon the occurrence of each of the following (or Buyer’s written waiver thereof):

(i) At least one hundred eighty (180) days prior to the Commercial Operation Date, Seller shall have entered into a new or amended Interconnection Agreement with the Duke Energy Florida for the Lake Facility and delivered a fully executed copy of same to Buyer; and,

(ii) By January 1, 2014, Seller shall have approved this Agreement without change or modification, and have delivered a fully executed copy of same to Buyer; and,

(iii) At least ninety (90) days prior to Commercial Operation Date, Buyer shall have received confirmation from Duke Energy Florida that adequate transmission capacity will be made available to deliver Seller’s electric capacity and energy to Buyer; and,

(iv) By January 1, 2014, Buyer shall have received all required approvals and signatures required by Buyer; and,

(v) Within ninety (90) days of Buyer’s execution of this Agreement, Seller shall have tendered to Buyer the Termination Option Payment; provided, that if Seller fails to timely tender such payment, Buyer may terminate this Agreement at any time upon written notice to Seller.

(C) In the event that any of the conditions set forth in (A) or (B) shall fail to be completed in accordance with their terms, Seller, in the case of the conditions set forth in (A), or Buyer, in the case of the conditions set forth in (B), shall have the right, but not the obligation, in writing prior to the referenced date to extend on a one-time basis, the date by which such condition is to be satisfied by a period of up to ninety (90) days from the referenced date.

(D) In the event that any of the foregoing Seller conditions in (A) shall fail to be satisfied by the date required, as such date may be extended by Seller pursuant to (C), Seller may elect, in its sole discretion, to provide notice to Buyer that despite such failure Seller is waiving such unsatisfied condition(s). If Seller provides such notice, Seller shall be deemed to have
waived any claim for damages, losses or other relief arising from or in connection with such failure, unless otherwise agreed in writing by the Parties. Waiver by Seller under this sub-section shall not affect Buyer’s rights under this Section.

(E) In the event that any of the foregoing Buyer conditions in (B) shall fail to be satisfied by the date required, as such date may be extended by Buyer pursuant to (C), Buyer may elect, in its sole discretion, to provide notice to Seller that despite such failure Buyer is waiving such unsatisfied condition(s). If Buyer provides such notice, Buyer shall be deemed to have waived any claim for damages, losses or other relief arising from or in connection with such failure, unless otherwise agreed in writing by the Parties. Waiver by Buyer under this sub-section shall not affect Seller’s rights under this Section.

(F) Buyer and Seller shall use their reasonable good faith efforts to cause the conditions set forth in (A) and (B) to be satisfied by the date specified. In the event that any of the conditions set forth in this Section 8 is not satisfied or waived by the date specified therefore, Seller (in the case of a condition set forth in (A)) or Buyer (in the case of a condition set forth in (B)) shall have the right to terminate this Agreement by providing written notice to the other Party specifying a termination date no later than ninety (90) days from the date of the written notice; provided that a Party may not so terminate this Agreement based on the non-satisfaction of a condition if such condition would have been satisfied but for such Party’s failure to use reasonable good faith efforts. If this Agreement is terminated pursuant to the preceding sentence, neither Party shall have any liability to the other, unless such termination is based on the non-satisfaction of a condition subsequent which would have been satisfied but for a Party’s failure to use reasonable good faith efforts. It is understood by the Parties that termination of this Agreement by either Party for any economic reason shall be considered a failure to use reasonable good faith efforts to satisfy conditions; however, for the avoidance of doubt, Seller shall not be deemed to have acted in bad faith if one or more Facilities, other than a Third Party Source, will no longer be operated by Seller or its affiliate for any reason. Notwithstanding anything to the contrary, neither Party shall have any right to provide written notice terminating this Agreement under this sub-section (F) at any time after the date which is thirty (30) days following the latest date provided for satisfying conditions under (A) or (B), as applicable (as such date may be extended pursuant to (C)).
9. METERING:

(A) Unless the Parties otherwise agree in writing, the metering for determining electric energy deliveries to Buyer under this Agreement (Billing Metering) shall be (i) the meters previously installed by Duke Energy Florida and currently in use at the Point of Interconnection for the Lake Facility, and, (ii) the meters previously installed by Florida Power & Light Company and currently in use at the Point of Interconnection for the [REDACTED]. Any additional metering required by Buyer shall be the sole responsibility of Buyer; except, that as to a Third Party Source, the cost of metering shall be the sole responsibility of Seller.

(B) Buyer, its agents or representatives shall promptly read the Billing Metering to determine Seller’s deliveries for the applicable Billing Period, and provide a summary of such data to Seller by not later than the fifth (5th) business day of the month following the Billing Period to enable Seller to render an invoice to Buyer for the Billing Period pursuant to Sections 6 and 12 of this Agreement. Seller shall afford Buyer reasonable access to the Billing Metering equipment. Reasonable access shall consist of physical access for the purpose of meter reading and trouble shooting, as well as remote access by Buyer using Buyer provided communications circuits for meter data retrieval.

(C) Billing Metering shall be calibrated to maintain accuracy within plus or minus two-tenths of a percent (0.2%) as far as practicable. If at any test a meter shall be found to be inaccurate by more than two-tenths percent (0.2%) fast or slow, an adjustment shall be made by Seller to compensate for the effect of such inaccuracy over the lesser of (a) the period of time extending back to the time such inaccuracy first occurred or (b) the ninety (90) days prior to the test. Any corrections in billings resulting from inaccurate metering shall be made in the next monthly bill rendered, and such corrections when made shall constitute full adjustment. If at any time a meter shall fail to register, the meter data to be used for billing purposes shall be jointly determined by the Parties using all known pertinent information for the period the meters are out of service. Seller shall, at its sole cost and expense, be responsible for Billing Metering calibration at least once every other year. For purposes of the immediately preceding sentence, Duke Energy Florida’s and Florida Power & Light Company’s routine calibration of such Billing Metering shall suffice for the purposes of this Agreement.

(D) Seller shall, at its sole cost and expense, be responsible for Billing Metering calibration at least once every other year. For purposes of the immediately preceding sentence,
Duke Energy Florida’s and Florida Power & Light Company’s routine calibration of such Billing Metering shall suffice for the purposes of this Agreement. Buyer reserves the right to require that Seller, either itself or through arrangements with a third party, calibrate the meters at other times. Should such additional recalibration of the Billing Metering demonstrate that they are within specified tolerance, then the costs and expenses of such recalibration(s) shall be borne by Buyer. If such additional recalibration(s) are not within the specified tolerance, then the costs and expenses of such recalibrations shall be borne by Seller. Copies of test records for Billing Metering calibrations shall be made available to Buyer upon request.

(E) Buyer reserves the right to require that Seller, either itself or through arrangements with a third party, calibrate the meters at other times. Should such additional recalibration of the Billing Metering demonstrate that they are within specified tolerance, then the costs and expenses of such recalibration(s) shall be borne by Buyer. If such additional recalibration(s) are not within the specified tolerance, then the costs and expenses of such recalibrations shall be borne by Seller. Copies of test records for Billing Metering calibrations shall be made available to Buyer upon request.

(F) Buyer may, at its sole cost and expense and with the consent of Seller and Transmission Service Provider, install system control and data acquisition and communications equipment on-site to enable Buyer to monitor in real time any critical Facility information for purposes of managing Buyer’s power supply resources; provided, however, that Seller shall have the right to approve such equipment and such installation located on-site, which such approval rights shall not be unreasonably withheld or delayed by Seller. This Section shall not be interpreted or construed as providing Buyer with any control or authority over a Facility, its operations and electrical generation, nor shall Buyer have any right or authority to subject a Facility to dispatch. Once installed, Buyer may have reasonably access to all such data acquisition and communications equipment provided that prior notice is given the Seller and the Transmission Service Provider’s personnel, and Buyer complies with all of safety, insurance and other applicable procedures of Seller and Transmission Service Provider.

(G) Buyer may install at its own expense, backup metering devices ("Buyer Backup Metering") which installation shall be reasonably acceptable to Seller and shall be maintained consistent with Good Operating Practices. Seller, at its own expense, shall have the right to inspect and test Buyer Backup Metering upon installation and at least annually thereafter. Seller
shall provide Buyer with reasonable advance notice of, and permit a representative of Buyer to
witness and verify, such inspections and tests, provided that Buyer shall not unreasonably
interfere with or disrupt the inspection and testing activities of Seller and Seller shall comply
with all of Buyer's safety standards.

(H) If Billing Metering fails to register, or if the measurement made by the Billing
Metering is found upon testing to be inaccurate by more than the meter accuracy threshold set
forth in this Section, an adjustment shall be made correcting all measurements by the inaccurate
or defective Billing Metering, for both the amount of the inaccuracy and the period of the
inaccuracy, in the following manner:

(i) In the event that the Billing Metering is found to be defective or inaccurate, the
Parties shall use Seller’s backup metering or Buyer’s Backup Metering, if
installed, to determine the amount of such inaccuracy, provided that Buyer’s
Backup Metering has been tested and maintained in accordance with the
provisions of this Section. In the event that the Billing Metering and the Buyer’s
Backup Metering fail, the Parties shall estimate the amount of the necessary
adjustment during periods of similar operating conditions when the Billing
Metering was registering accurately. The adjustment shall be made for the period
during which inaccurate measurements were made.

(ii) In the event that the Parties cannot agree on the actual period during which the
inaccurate measurements were made, the period during which the measurements
are to be adjusted shall be the shorter of (i) one-half of the period from the last test
of the Billing Metering to the test that found the Billing Metering to be defective
or inaccurate, or (ii) the ninety (90) days immediately preceding the test that found
the Billing Meter to be defective or inaccurate.

(iv) To the extent that the adjustment period covers a period of deliveries for which
billings have already been made by Seller, Seller shall use the corrected
measurements as determined in accordance with this Section to compute the
adjustment necessary for the period of the inaccuracy and shall adjust billing for
this period from such recomputed amount in the next monthly bill after the error is
identified, and to the extent that Seller has overbilled Buyer for the Contract
Energy and Contract Capacity hereunder, accrued interest on the amount of any
overpayments by Buyer shall be computed at the Interest Rate from the date Seller received such overpayment by Buyer until refunded or (if requested by Buyer, credited) against future payment. Conversely, to the extent Seller underbilled Buyer for the Contract Energy and Contract Capacity hereunder, accrued interest on the amounts of any underbilling by Seller shall be computed at the Interest Rate from the date Seller received the payment for underbilled amount from Buyer and added to the next monthly bill from Seller to Buyer, accruing until paid.

10. **SCHEDULING:** On each Business Day subsequent to the Commercial Operation Date, Seller shall provide Buyer’s Scheduling Agent a schedule of the forecasted delivery of energy for each hour of the following day(s), as well as any intervening non-Business Days (“Schedule for Energy”) in compliance with the reasonable scheduling procedures of the Buyer’s Scheduling Agent, provided that such procedures are not unduly burdensome, onerous or unreasonable to Seller. In the event that the Schedule for Energy changes subsequent to submission of a original Schedule for Energy, Seller shall submit a revised Schedule for Energy for the remainder of the delivery period as soon as reasonably possible. The Seller shall provide Buyer a copy of all Schedules for Energy via electronic mail.

11. **INTERCONNECTION RESPONSIBILITY:** Except as otherwise specifically provided for herein, subsequent to the Commercial Operation Date, Seller shall be responsible for operating, and maintaining, at no expense to Buyer, the Interconnection Facilities, including all substation equipment, transformers, and protective equipment associated with a Facility and located on Seller’s side of the Point of Interconnection.

12. **BILLING AND PAYMENT:**

   (A) Beginning on the Commercial Operation Date and continuing through the expiration or termination of this Agreement, Buyer shall timely provide to Seller the following information:

   (i) Within five (5) days following the end of a Billing Period

   (ii) By 6:00 AM of each Business Day the Buyer’s actual hourly load data for its electric distribution system for the prior business day and any prior non-Business Days for which load data has not yet been provided.
(B) Buyer shall deliver, whether by electronic mail, facsimile or another mutually agreed upon method, to Seller as soon as reasonably practical following the end of each Billing Period, but in no event later than the five (5) business day following the end of the Billing Period, a statement showing the aggregate total electric capacity and energy delivered to Buyer at a Point of Interconnection during the Billing Period and an estimated computation of the payment due Seller for the Billing Period. Seller shall provide, whether by electronic mail, facsimile or another mutually agreed upon method, to Buyer a preliminary invoice no later than the ten (10) business day after the conclusion of the Billing Period. Payment of such invoice shall be made within ten (10) days of the date of such invoice and shall be made by electronic funds transfer to: Covanta Energy Marketing, LLC, in accordance with routing instructions and direction which shall be provided by Covanta simultaneous with its Notice of Commercial Operations, subject to future modification pursuant to Section 28. Payments shall be deemed paid as of the date credited to Seller’s account.

(C) Within ten (10) days following Seller’s receipt of Buyer’s list of Actual On Peak Hours for the monthly Billing Period, Seller shall determine the necessity for adjustment to the Capacity Payment pursuant to the provisions of Exhibit B and apply a true up, if any, of the Capacity Payment to the preliminary invoice for the subsequent Billing Period.

(D) Payments made subsequent to the due date shall be subject to an interest charge at a per annum rate equal to: (a) the prime rate as quoted in The Wall Street Journal (or any equivalent publication) on the due date of the payment in question (or, if The Wall Street Journal or equivalent publication is not published on such due date, then on the next preceding date on which The Wall Street Journal or equivalent publication was published) (“Interest”), such Interest to accrue on the unpaid balance of the payment in question from the due date thereof until paid and to be calculated on the basis of a 365/366-day year (as the case may be) and the actual number of days elapsed.

13. LIABILITY:

(A) Neither Buyer nor Seller shall be responsible to the other in tort (including negligence and strict liability), contract or otherwise for any loss, costs or damage of any kind which may result from or be caused by interruptions in delivery of electricity or deficiencies such deliveries under this Agreement except as specifically provided as a result of an Event of Default. Buyer
and Seller, expressly agree, to the extent permitted by applicable law, to indemnify, hold harmless and defend the other Party against all claims, liability, costs or expense for loss, damage or injury to persons or property in any manner directly or indirectly connected with or growing out of the generation, transmission or distribution of electric energy on the indemnifying Party’s side of a Point of Interconnection hereunder except to the extent due to the indemnified Party’s own negligence or willful misconduct. Except in the case of indemnification resulting from third party claims, neither Party shall be liable to the other Party for punitive, incidental or consequential damages including, but not limited to, lost profits. This Section shall survive termination or expiration of this Agreement.

(B) NEITHER BUYER OR SELLER SHALL BE LIABLE TO THE OTHER FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, UNDER ANY INDEMNITY PROVISION OR ANY OTHER THEORY OF RECOVERY. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE PARTY’S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY, AND SUCH DIRECT DAMAGES SHALL BE THE SOLE AND EXCLUSIVE MEASURE OF DAMAGES AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED; PROVIDED, HOWEVER, THAT THIS SENTENCE SHALL NOT APPLY TO LIMIT THE LIABILITY OF A PARTY WHOSE ACTIONS GIVING RISE TO SUCH LIABILITY CONSTITUTE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE PROVISIONS OF THIS SECTION SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS AGREEMENT, BUT SUCH SURVIVAL SHALL APPLY ONLY TO THOSE CAUSES OF ACTION, IF ANY, ARISING PRIOR TO TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS AGREEMENT. NOTHING
CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WAIVER OF A PARTY’S RIGHT TO SEEK INJUNCTIVE RELIEF. IN NO EVENT SHALL MAXIMUM AGGREGATE LIABILITY OF SELLER TO BUYER OR BUYER TO SELLER, FOR ANY CAUSES OF ACTION OR CLAIMS ARISING OUT OF THIS AGREEMENT, EXCEED THE AMOUNT THAT IS THE PRODUCT OF MULTIPLYING [REDACTED] BY THE NUMBER OF MONTHS REMAINING IN THE TERM OF THIS AGREEMENT, ROUNDED TO THE NEAREST WHOLE MONTH, AT THE TIME A BONA FIDE CAUSE, ACTION OR CLAIM IS ASSERTED BY BUYER OR SELLER.

14. WAIVER OF SOVEREIGN IMMUNITY: Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, and performance thereof, it will not claim immunity on the grounds of sovereignty immunity or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court, (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment. However, notwithstanding anything in this Agreement to the contrary, nothing herein shall be construed or applied as a waiver of the Buyer’s sovereign immunity against third party tort claims, including those rights and limitations of liability under section 768.28, Florida statutes, as it may be amended. If the Seller pursues indemnity or a hold harmless/defense from the Buyer in connection with a third-party tort claim, then the Buyer shall have the right to assert against any such third party claimant, the defense of sovereign immunity on behalf of itself and the Seller shall allow the Buyer to maintain that defense and shall take no action that will frustrate Buyer’s ability to maintain a defense of sovereign immunity, including the procedures and limitations of liability in section 768.28, Florida statutes.

15. CHOICE OF LAW: This Agreement shall be construed and interpreted in accordance with the laws of the State of Florida, exclusive of any conflict of laws provision thereof that would apply the laws of another jurisdiction. The Parties hereby submit to the jurisdiction of, and agree that venue for actions hereunder shall be, the U.S. District Court for the Middle District of Florida, if the U.S. District Court has jurisdiction, or, if the U.S. District Court does not have jurisdiction, the Circuit Court of the State of Florida sitting in Orange County, Florida. EACH
PARTY WAIVES ITS RESPECTIVE RIGHT TO A JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

16. ARBITRATION:

(A) If a dispute between the Parties should arise under this Agreement, (i) in the first instance, the Parties shall attempt to resolve the dispute by negotiation between the members of senior management (or equivalent) of each Party, who shall meet on at least three (3) separate occasions; and (ii) if the dispute has not been resolved within forty-five (45) days of the initiation of dispute procedures under (i) above, and is not the subject of an outstanding lawsuit between the Parties, then either Party may call for submission of the dispute to arbitration, which call, if agreed to by the other Party shall be binding upon the Parties. The Parties are not required to resolve disputes via arbitration, but once both Parties agree to arbitrate a dispute, if the arbitration results in an award, the arbitrator’s decision shall be binding upon the Parties and is the exclusive means of resolving those issues that are the subject of the arbitration (provided any such issue was not the subject of a pre-existing lawsuit initiated by either Party, in which case any such pre-existing lawsuit will dictate the outcome of such issue).

(B) The arbitration shall be governed by the rules and practices of the American Arbitration Association (or the rules and practice of a similar organization if the American Arbitration Association should not then exist), with the proviso that the arbitration panel shall, in all events, consist of three (3) arbitrators, one chosen by each of the Parties and the third chosen by those two arbitrators. If such rules or practices conflict with the then existing provisions of Florida law applicable to arbitration proceedings, Florida law shall govern. Any decision by the arbitrators shall be final and binding on the Parties and will not be subject to appeal, review or re-examination by a court or the arbitrators, except for fraud, perjury, manifest clerical error, or the evident partiality or misconduct by an arbitrator that prejudices the rights of a party to the arbitration. The award of the arbitrators may include an award of any damages other than treble, special, punitive, exemplary, or consequential damages and, pursuant to the pleading of any Party to the dispute, any court having jurisdiction may enter a judgment of any award rendered in the arbitration. The fees and expenses of the arbitrators shall be shared equally by the Parties, and each Party shall bear its own costs.
(C) Whether or not a dispute is submitted to binding arbitration by mutual agreement of the Parties, each Party shall retain all of its rights to seek and obtain injunctive relief and other equitable remedies to enforce their respective rights. Without limiting the generality of the foregoing, any Party may (a) petition a court of competent jurisdiction to enter a temporary restraining order or preliminary injunction to preserve the status quo pending resolution of any arbitration proceeding, and (b) commence a proceeding in any court of competent jurisdiction to enforce any arbitration award or a settlement resulting from negotiation of the Parties.

17. **TITLE TO CAPACITY & ENERGY:**

(A) Contract Capacity and Contract Energy sold by Seller to Buyer under this Agreement shall be delivered by Seller, free and clear of all liens, claims and encumbrances, from a Facility to a Point of Interconnection, at which time all right, title to or interest in shall pass to Buyer. Seller shall hold title to and be responsible only for those costs or obligations incurred prior to delivery of Contract Capacity and Contract Energy to a Point of Interconnection.

(B) Buyer shall take title to, and be wholly responsible for, any and all obligations arising out of the ownership of such Contract Capacity and Contract Energy beyond the Point of Interconnection; provided, however, that Buyer shall not be responsible for fees and costs identified in Section 2(A) relating to the delivery of Contract Capacity from the [REDACTED] or a Third Party Source to the Point of Delivery.

18. **WAIVER:** Any waiver at any time by either Party of its rights with respect to this Agreement, or with respect to any other matter arising in connection with this Agreement, shall be deemed a waiver of that specific instance only and shall not be deemed a waiver with respect to any other matter arising in connection with this Agreement.

19. **FORCE MAJERE:**

(A) No Party shall be considered to be in default of any of its obligations under this Agreement, except to make payments as specified herein, when a failure of performance shall be due to Force Majeure. A Party rendered unable to fulfill any obligation under this Agreement by reason of Force Majeure, affecting Buyer’s facilities or a Seller Facility, shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.
(B) Buyer may terminate this Agreement upon the failure of Seller for any reason, including Force Majeure, to deliver any energy to Buyer for a period of nine (9) consecutive months; provided, however, that upon Seller’s request, for good cause shown, such nine (9) month period shall be extended for up to an additional six (6) months upon Seller’s showing that: (i) the impacts of the Force Majeure upon cannot reasonably be remedied within nine (9) months, (ii) the Seller is pursuing with due diligence the work and repairs necessary to remedy the impacts of the Forced Majeure, and (iii) it is reasonable to expect such work and repairs will be completed within the additional six (6) month period.

(C) Seller may terminate this Agreement upon the failure of Buyer for any reason, including Force Majeure, to purchase any capacity and energy from Buyer for a period of six (6) consecutive months provided that the Seller is capable of providing capacity and energy hereunder during such period. Termination shall not affect any rights or obligations accrued prior to such termination or any other right or obligation which, pursuant to the terms of this Agreement, survives termination. Irrespective of the time of termination of this Agreement, any sums due hereunder shall become immediately due and payable.

(D) Notwithstanding the foregoing, in the event of a Force Majeure declared by Buyer or Seller, either Party may elect at its option to terminate the Agreement after reasonable opportunities to cure as provided herein have been exhausted by the other Party, or, at such earlier time as the Parties mutually agree to terminate the Agreement as a direct result of such Force Majeure.

20. CHANGE IN LAW:

(A) In the event of a Change in Law, the affected Party shall provide written notice to the other Party within thirty (30) days of it having become aware of such Change in Law, and the Parties shall enter into negotiations seeking to restructure this Agreement in manner mutually agreeable to both Parties so as to mitigate the impact of the Change in Law on the affected Party.

(B) If after sixty (60) days of good faith negotiations, the Parties are unable to agree upon a mutually acceptable modification, or if the Parties determine that the extent of the Change in Law is such as to render it impossible to restructure this Agreement in a mutually satisfactory manner, the affected Party may terminate this Agreement upon one hundred twenty (120) days written notice to the other Party, which notice shall include the date of termination, and both
Parties shall from the date of termination forward be fully relieved of any further obligation or liability to the other hereunder, except for the payment of any amount due as of the date of termination from one Party to the other; provided, however, that the contesting in good faith by such affected party of any order and/or judgment shall stay termination of the Agreement until and unless a final adverse judgment is received.

(C) If the Change in Law results from: (i) an appealable decision of a Federal or Florida court, or (ii) an appealable decision of a Federal or Florida regulatory agency, the Change in Law shall not be constitute a basis for termination this Agreement under this Section, until the time for appeal has passed, or, if an appeal has been filed, such appeal has been finally decided and not subject to further appeal; provided, however, that if the Change in Law is not stayed during the pendency of an appeal, or the appeal period, and the applicable Federal or Florida authority is enforcing such Change in Law, then the Change in Law shall be considered to be “in effect” and serve as a basis for termination under this Section at the option of the affected Party.

(D) Nothing contained in this Section 20, or elsewhere in this Agreement, shall obligate either Party to appeal any such Change in Law; and, provided further, that the provisions of this Section 20 shall not apply to any Change in Law that is the result of the willful misconduct or negligence of the Party relying on such Change in Law.

(E) Anything to the contrary in this Agreement notwithstanding, if a Change in Law requires a Party to take action that would materially impair or prevent its performance under this Agreement, such Party shall be entitled at its sole option to terminate this Agreement upon the effective date of applicability of such Change in Law to the Party, and the Parties shall thereupon be relieved of any further obligations hereunder except for payments from Buyer due to Seller for Contract Capacity and Contract Energy sold to Buyer prior to such termination.

(F) Buyer shall not, during the term of this Agreement, change or reinterpret any law, including but not limited to ordinances, codes, regulations, and enforcement policies, existing as of the date of this Agreement; or, enact any new law, including but not limited to ordinances, codes, regulations or enforcement policies that would negatively impact Seller under this Agreement; or, that could be attempted to be claimed by Buyer as a Change in Law justification to renegotiate, terminate or otherwise seek to benefit from the Change in Law provisions of this Agreement.
21. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto, but only as permitted in this Section.

   (A) The Parties shall have the right at any time to mortgage, create or provide for a security interest in, or convey in trust all or a part of its interest in, this Agreement, under deeds of trust, mortgages, indentures or security agreements, as security for, or in relation to, a Party securing financing without need for the consent of the other Party. In the event of any security interest being made or given by a Party (the “Financing Party”), the non-Financing Party shall, upon the request of the Financing Party, enter into an agreement with the financing entity on commercially reasonable terms.

   (B) Each Party shall have the right to assign its interest in this Agreement to an affiliate without the consent of the other Party; provided, however that such affiliate shall possess similar ability to financially and operationally perform the obligations of the assigning Party as reasonably determined by the assigning Party.

   (C) In the case of an assignment under this Section, the non-assigning Party may require in a commercially reasonable manner that the assigning party represent that to its knowledge, the assignee has the ability to financially and operationally perform the obligations of the assigning Party, and to procure from the proposed assignee an agreement with or for the benefit of the non-assigning Party under which the proposed assignee would agree to perform and observe all the obligations imposed on the assigning Party under this Agreement.

   (D) Any transactions otherwise allowed under this Section 21 shall only be permissible if they do not violate the terms of any license or permit required by a Party for performance under this Agreement.

   (E) Except as otherwise provided in this Section, either Party may assign its interest in the Agreement in whole or in part with the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

   (F) If a non-assigning Party unreasonably delays in providing its consent to a proposed assignment, or attempts to impose commercially unreasonable demands or conditions upon its consent to a proposed assignment, then the assigning Party may seek any and all damages from the non-assigning Party despite the limitations of liability set forth in Section 14, which limitations shall not be applicable and shall be deemed waived by the non-assigning Party, with respect to such proposed assignment.
22. **APPROVALS:** Each Party hereto shall use its best reasonable commercial efforts and shall cooperate with the other to: (i) obtain and maintain from all applicable state and federal authorities all authorizations, approvals, and orders to the extent required by law in order to enable it to validly enter into this Agreement; (ii) comply with, achieve or waive its respective Conditions Precedent; and, (iii) perform all of its obligations herein throughout the Term.

23. **REPRESENTATIONS AND WARRANTIES:** As a material inducement to enter into this Agreement, each Party represents and warrants to the other Party that as of the Effective Date of the Agreement, subject to the conditions precedent provided for in Section 8:

   i. it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and has all requisite power and authority to enter into this Agreement and consummate the transactions contemplated herein;

   ii. it has all regulatory authorizations necessary for it to legally perform its obligations hereunder or will obtain such authorizations in a timely manner prior to the time that performance by such Party which requires such authorization becomes due;

   iii. the execution, delivery, and performance of this Agreement will not conflict with or violate any rule, statute or regulation of any court, agency, or regulatory body, or any contract, agreement or arrangement to which it is a party or by which it is otherwise bound;

   iv. subject to subsection (ii) above, this Agreement constitutes a legal, valid, and binding obligation of such Party enforceable against it in accordance with its terms, and each Party has all rights such that it can and will perform its obligations to the other Party in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganization and other laws affecting creditor’s rights generally and general principles of equity;

   v. it has negotiated and entered into this Agreement in the ordinary course of its respective business, in good faith, for fair consideration on an arm’s-length basis;

   vi. it is not bankrupt and there are no proceedings pending or being contemplated by it, or, to its knowledge, threatened against it which would result in it being or becoming bankrupt; and

   vii. there are no pending, or to its knowledge, threatened legal proceedings against it that could materially adversely affect its ability to perform its obligations under this Agreement.
EXCEPT AS MAY BE PROVIDED IN THIS AGREEMENT, THE PARTIES MAKE NO OTHER REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, RELATING TO THEIR PERFORMANCE OR OBLIGATIONS UNDER THIS AGREEMENT, AND EACH PARTY DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

24. **DEFAULT:**

   (A) **Default.** Each of the following will be an “Event of Default” of the Agreement:

   i. The failure of either Party to make any payment to the other Party as required by this Agreement within thirty (30) days of the date when such payment became due and payable.

   ii. The failure by either Party to perform any material obligation to the other Party under this Agreement.

   iii. The insolvency or bankruptcy of a Party or its inability or admission in writing of its inability to pay its debts as they mature, or the making of a general assignment for the benefit of, or entry into any contract or arrangement with, its creditors other than Seller's or Buyer's mortgagee, as the case may be.

   iv. The application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for any part or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceedings seeking such appointment against it without such authorization, consent or application, which proceedings continue un-dismissed or un-stayed for a period of at least sixty (60) days.

   v. The authorization or filing by any Party of a voluntary petition in bankruptcy or application for or consent (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction or the institution of such proceedings against a Party without such authorization, application or consent, which proceedings remain un-dismissed or un-stayed for at least sixty (60) days or which result in adjudication of bankruptcy or insolvency within such time.

   vi. Any representation or warranty made by a Party in the Agreement shall prove to have been false in any material respect when made.
(B) **Cure Period for Certain Events of Default.** When an Event of Default occurs under 24(A)(i) or 24(A)(ii), the non-defaulting Party will give the defaulting Party written notice of the Event of Default and an opportunity to remedy the Event of Default. If the Event of Default shall not have been fully cured within thirty (30) days from the date of the notice or other mutually agreed upon time, the non-defaulting Party shall have all the rights it may have at law or in equity, including the right to terminate this Agreement. This sub-section 24(B) does not apply to the Events of Default set forth in 24(A) iii, iv, v, and vi.

(C) **Rights and Remedies.** The non-defaulting Party shall have the right to immediately terminate this Agreement upon the occurrence of an Event of Default specified in 24(A) iii, iv, v, and vi of this Agreement. In addition, the non-defaulting Party may also exercise any rights or remedies available at law or equity. No delay or failure on the part of a non-defaulting Party to exercise any right or remedy to which it may become entitled on account of an Event of Default shall constitute an abandonment of any such right, and the non-defaulting Party shall be entitled to exercise such right or remedy at any time during the continuance of an Event of Default notwithstanding any delay in enforcing such right. No waiver of any Event of Default shall constitute a waiver of any later Event of Default; all such waivers shall be in writing and shall in no circumstance be deemed effective unless such waiver is made in writing. All of the remedies and other provisions of this sub-section 24(C) shall be without prejudice and in addition to any right of setoff, recoupment, combination of accounts, lien, or other right to which any Party is at any time otherwise entitled, whether by operation of law or in equity, under contract, or otherwise.

25. **OPERATING REPRESENTATIVES:**

(A) The Parties hereby establish Operating Representatives to secure effective coordination and to deal on a prompt and orderly basis with the various operating and technical problems which may arise in conjunction with the delivery of power, billings and payments, and coordination of operations and maintenance. Each Party, by written notice to the other Party provided no later than thirty (30) days after Seller’s Notice of Commercial Operation Date and in accordance with Section 28, shall designate an Operating Representative who is authorized to act on its behalf.
(B) The establishment of any procedure or practice or any other action or determination by the Operating Representative shall be in writing and be effective when signed by the Operating Representative of each of the Parties. The Operating Representatives of the Parties shall have no authority to modify any provision of this Agreement. The Operating Representatives will work together to develop procedures for operations, metering, etc., for the Plant at least one (1) month prior to the Commercial Operation Date. A Party may change its Operating Representative from time-to-time by providing notice to the other Party in accordance with Section 28.

26. **SEVERABILITY:** In the event that any of the material terms, covenants or conditions of this Agreement, its Exhibits, or the application of any such term, covenant, or condition shall be held invalid by any court or administrative body having jurisdiction (aside from the Seller itself), it is the intention of the Parties that in lieu of each such term, covenant or condition that is invalid, (i) there would by a subsequent negotiated amendment of the Agreement be added as part of this Agreement a term, covenant, or condition as similar in terms as possible to such invalid term, covenant or condition that will secure and maintain all of the benefits that would have accrued to the Parties by virtue of such invalid terms, covenants or conditions, in which case the Agreement shall not be affected thereby and shall remain in full force and effect, or (ii) if the Parties are unable after diligent good faith negotiations for a period of no less than ninety (90) to devise or to add a term, covenant or condition as contemplated in (i), either Party may terminate this Agreement upon thirty (30) days written notice to the other Party.

27. **INTEGRATION:** The terms and provisions and Exhibits contained in this Agreement between Buyer and Seller constitute the entire agreement between Buyer and Seller, and supersede all previous communications and representations, either oral or written, between Buyer and Seller with respect to the subject matter of this Agreement.

28. **NOTICES:** All notices under this Agreement shall be given in writing and shall be deemed sufficient if hand delivered, sent by facsimile transmission, sent by express parcel delivery, or sent by registered or certified U. S. Mail, postage prepaid thereon, addressed as follows:
(A) **If to Seller:**

Covanta Lake Business Manager  
3830 Rogers Industrial Park Road  
Okahumpka, Florida 34760  
Telephone: 352-365-1611  
Facsimile: 352-365-6359

(B) **If to Buyer:**

City Manager  
City of Winter Park  
401 Park Avenue South  
Winter Park Florida 32789  
Telephone: 407-599-3399  
Facsimile: 407-599-3436

(C) The designation of the person to be notified or the address or other contact information of said person may be changed at any time by similar notice. Any notice sent in compliance with the requirements of this Section shall be deemed received on the date such notice is actually received by the Party or Parties to whom such notice is addressed.

29. **AUDIT:**

(A) The Parties shall maintain accurate records and books of account in accordance with generally accepted accounting principles and consistent with this Agreement. Said books and records shall include, and present fairly, all metering data utilized, either directly or indirectly, in computing any charges or payments to the other Party under this Agreement.

(B) Upon thirty (30) days' written notice, each Party shall afford the other Party or its independent auditors' reasonable access to the relevant records and books of account during the Term of this Agreement and for a period of three (3) years thereafter. The Parties shall make every reasonable effort to obtain information from agents, consultants and major subcontractors requested in connection with such access to the records and books of account, at the requesting Party's expense, relating to the metering of the Facility, invoices to Buyer and payments to Seller.

(C) Each Party shall have the right, after reasonable notice, at its sole expense and at a time during normal business hours as mutually agreed upon by the Parties, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any invoice, bill, statement, Charges or computation made pursuant to this Agreement. If requested, a Party
shall provide to the other Party statements evidencing the quantity of Contract Energy delivered at a Point of Interconnection. If any such examination reveals any inaccuracy in any invoice, bill or statement, the necessary adjustments in such invoice, bill or statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any invoice, bill statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

30. **HEADINGS AND REFERENCES:** All titles, subject headings, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the contents or scope of this Agreement.

31. **NO PARTNERSHIP:** Nothing in this Agreement shall be treated as creating a partnership or joint venture between either of the Parties under the laws of any applicable jurisdiction and, except as specifically provided in this Agreement, no Party may act or have any authority to act as agent of or in any way bind or commit the other Party to any obligation.

32. **COSTS AND EXPENSES:** Each Party shall bear and is responsible for its own costs (including, without limitation, attorney’s fees) in connection with the negotiation, preparation, execution, completion and carrying into effect of this Agreement.

33. **AMENDMENT:** This Agreement may be amended, changed, modified or altered except as set forth in writing and signed by duly authorized representatives of both Parties hereto.

34. **INFORMATION:** Seller shall promptly furnish Buyer with copies of such records and other information relating to the Interconnection Facilities or the operation of the Facility as may be reasonably requested by Buyer from time to time.

35. **CONFIDENTIALITY:** The Parties agree that the pricing and certain other terms and conditions contained in this Agreement are proprietary trade secrets as defined under Florida law. Each Party agrees to notify the other Party as soon as possible of any request for proprietary information, and not to distribute any proprietary information without first notifying the other Party; provided, however, nothing herein limits an obligation of a Party to disclose such information as may be required under applicable law. Seller shall provide Buyer with a public
version of this Agreement that redacts all pricing, terms and conditions that Seller considers to be proprietary trade secret, and Buyer agrees to keep such redacted information confidential as exempt from Florida's Public Record Act (Chapter 119, Florida statutes) to the fullest extent allowed by law. Seller may assume the Buyer’s defense against any third party challenge seeking disclosure of the redacted information, but in any event Seller shall hold Buyer harmless and indemnify Buyer from and against all third party claims or actions, including attorneys' fees and damages, resulting from or arising out of the assertion of a trade secret exemption under Florida’s Public Record Act with respect to the redacted information that Seller asserts is a trade secret.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names, to be effective upon the date and year first above written.

CITY OF WINTER PARK, FLORIDA

By: _____________________________
Name: _____________________________
Title: _____________________________
Date: _____________________________

ATTEST

City Clerk

COVANTA ENERGY MARKETING, LLC

By: _____________________________
Name: _____________________________
Title: _____________________________
Date: _____________________________

ATTEST

Corporate Secretary
(1) **The Energy Payment Rate** in dollars per megawatt-hour ($/MWh) for Contract Energy delivered to Buyer in each Contract Year during the Term commencing on the Commercial Operation Date through the expiration or termination of this Agreement, including the Extended Term if applicable, shall be:

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EXHIBIT B
Capacity Payment

(1) **The Capacity Payment** due from Buyer to Seller for Contract Capacity in each monthly Billing Period subsequent to the Commercial Operation Date and continuing through the Term of this Agreement, including the Extended Term if applicable, shall be calculated in accordance with the following:

\[
\text{Capacity Payment} = \text{Capacity Payment Rate} \times 10 \text{ MW}
\]

*Capacity Payment Rate* = the Capacity Payment Rate  
10 MW = the Contract Capacity

(2) **Capacity Payment Adjustment** ("CPA") shall be determined for each monthly Billing Period in accordance with the following formula; provided however, that in no event may a Capacity Payment exceed $187,500 in any monthly Billing Period:

\[
\text{CPA} = (\text{CF} - 92.5\%) \times \text{($140,000)}
\]

*CF* = the monthly Capacity Factor (%)

Any CPA greater than "0" will be escrowed into an account held by Buyer based on a 12 month historical rolling accumulation of credit(s), if any, to be used as an offset against or credit to any monthly Capacity Payment which is less than $187,500. The following provide examples of the application of the above:

(a) Example #1:

If the 12 month rolling escrow account balance is $10,500.00, and the current monthly CF is 77.50%, Seller's Capacity Payment would be calculated as follow:

\[
\text{CPA} = (77.5\% - 92.5\%) \times \text{($140,000)} = (-) \text{$21,000.00}
\]

\[
\text{Capacity Payment} = $187,500 - \text{$21,000.00} = \text{$166,750}
\]

Credit 12 month accumulation of $10,500

Then, the adjusted monthly Capacity Payment = ($166,750 + $10,500) = $179,250.00

(b) Example #2:

If the 12 month rolling escrow account balance is $10,500.00 and the current monthly CF is 90.00%, Seller's Capacity Payment would be calculated as follow:

\[
\text{CPA} = (90\% - 92.5\%) \times \text{($140,000)} = (-) \text{$3,500.00}
\]

\[
\text{Capacity Payment} = $187,500 - \text{$3,500.00} = \text{$184,000}
\]

Credit 12 month accumulation of $3,500

Then, the adjusted Capacity Payment = ($184,000) + ($3,500) = $187,500, and a $7,000 balance remains in the rolling escrow account within the rolling 12 month period.

(3) **Partial Month Billing Period Adjustment**

For any partial month Billing Period, that may occur due to early termination of the Agreement, the Capacity Payment Rate shall be reduced proportionally as per the following example:

If the Agreement is terminated at midnight on the 15th day of a 30 day month, the Capacity Payment Rate for such month would be multiplied by a fraction, the numerator of which is the number of days of the month that Seller delivered capacity and energy and the denominator of which is 30.
subject

Prioritization of Recommendations from the WRT Study

motion | recommendation

Staff recommends Commission approval for the tasks and the timeframes associated with work product.

background

On September 9, 2013, the City Commission received the findings of a study prepared by Silvia Vargas with WRT regarding policies and regulatory issues to economic development in the City's Comprehensive Plan and Land Development Code. After further direction from the Commission, staff has prepared a worksheet that outlines each recommendation, related boards for review and a staff recommendation outlining possible timeframes for changes or implementation.

In general, the recommendations are broken down into three categories. Several of the tasks such as creating a framework for review by the Planning and Zoning Board and the Economic Development Advisory Board can be done immediately. Other changes, including policy changes that require changes to various policies in the Comprehensive Plan will be brought through the public hearing process as one of two large scale Comprehensive Plan Amendment cycles that the Planning & Community Development Department will schedule for 2014. The recommendation to wait until the Evaluation and Appraisal (EAR) report is based on the need for considerable data collection and analysis. The City’s EAR is due in 2016. Staff intends to begin certain aspects of this review as early as 2015 based on the recommendations and necessary changes in Chapter 163. This recommendation will not preclude possible changes through the Large Scale Comprehensive Plan Amendment process should staff and the appropriate boards decide to bring forward policy changes based on corridor planning.

Staff intends to move proactively through this worksheet and both the Planning & Zoning Board and the EDAB have committed to facilitate appropriate discussions.
alternatives | other considerations

N/A

fiscal impact

There are limited consultant funds available in the Planning & Community Development budget to retain assistance in the review and preparation process if necessary.
### WRT Study Issues and Recommendations

<table>
<thead>
<tr>
<th>Core Issues:</th>
<th>Recommendations:</th>
<th>Recommended Advisory Board Participation</th>
<th>Staff Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of agreement on the role and purpose of the Comprehensive Plan vs. Land Development Code</td>
<td>Develop a working group with EDAB and the P&amp;Z Board to coordinate on issues related to the impact of specific comprehensive plan policies and land development code regulations on economic development in the city.</td>
<td>EDAB/P&amp;Z</td>
<td>Immediate</td>
</tr>
<tr>
<td>Absence of a shared consensus on community vision</td>
<td>Develop a methodology for conducting a 9-12 month long city-wide visioning process with ample opportunities for meaningful public input.</td>
<td>EDAB/P&amp;Z</td>
<td>Immediate</td>
</tr>
<tr>
<td>Perceived conflict with the notions of growth and preservation using a &quot;one size fits all approach</td>
<td>Include W. Fairbanks Avenue and other Principal Arterial Corridors that are outside the &quot;Village&quot; definition. Create development standards that focus on easing impediments to redevelopment, addressing traffic and access, offering shared parking, that create practical opportunities for redevelopment and infill</td>
<td>EDAB/P&amp;Z/Bike-Ped</td>
<td>On-going</td>
</tr>
<tr>
<td>Disagreement on adopting a traditional vs. form based zoning approach</td>
<td>Provide policies in the Comprehensive Plan that include specifics regarding various corridors as distinct districts. The various plans, studies and guidelines should be referenced in policy and integrated into the Comprehensive Plan</td>
<td>EDAB/P&amp;Z</td>
<td>Evaluate for inclusion in Large Scale CPA Amendment Cycles as completed</td>
</tr>
<tr>
<td>Lack of clear long-term economic development goals in the Comprehensive Plan</td>
<td>Provide a thorough evaluation of form based code alternatives as outlined in the Comprehensive Plan</td>
<td>P&amp;Z</td>
<td>EAR Based Comp Plan Review</td>
</tr>
<tr>
<td></td>
<td>Take advantage of the upcoming EAR process to update the Comprehensive Plan to comply with the amended requirements of Chapter 163, F.S., to sort out the differences and to &quot;clean up&quot; the language of the Plan of extraneous and duplicative regulatory wording. Consider incorporating new historic preservation and economic development elements and strategies into the plan.</td>
<td>P&amp;Z/EDAB/Parks &amp; Recreation/Bike-Ped</td>
<td>EAR Based Comp Plan Review</td>
</tr>
<tr>
<td>WRT Study Issues and Recommendations</td>
<td>Recommended Advisory Board Participation</td>
<td>Staff Recommendations</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------</td>
<td>------------------------------------------</td>
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<td></td>
</tr>
<tr>
<td>Include an Economic Development Element within the Comprehensive Plan that incorporate mission, goals and strategic objectives</td>
<td>EDAB/P&amp;Z</td>
<td>EAR Based Comp Plan Review</td>
<td></td>
</tr>
<tr>
<td>Incorporate a Historic Preservation element in the Comprehensive Plan that can help create jobs and tourism, increase property values, reduce impact on resources and contribute to the pride in community identity and sense of place</td>
<td>P&amp;Z/HPB</td>
<td>EAR Based Comp Plan Review</td>
<td></td>
</tr>
</tbody>
</table>

**Specific Policy and Regulatory Issues**

- Not Discouraging the Proliferation of Sprawl according to revised indicators of Chapter 163, F.S.
- Impact of Concurrency Requirements which are no longer required by Chapter 163, F.S.
- Impact of the Definition of Floor Area Ratio (FAR) on the ability to provide off-street parking in areas in need of revitalization
- Burden of Combined Density and Floor Area Ratio Requirements on the ability to create a mixed use development in areas in need of revitalization
- Inconsistency in the Definition and Application of Building Heights
- Inconsistency in the Application of Planned Unit Residential Development
- Limitations of Current Planned Development Districts on opportunities to creative redevelopment and mixed use in areas in need of revitalization
- Burden of the Parking Lot (PL) Zoning District

**Recommendations:**

Discouraging the proliferation of sprawl according to revised indicators of Ch. 163, F.S.

**Possible Approaches:**

- Eliminate private parking garages from the calculation of floor area ration in Policy 1-2.1.4
- Maintain private garages in the calculation of FAR in key corridors and historic districts but

<p>| Possible Approaches | EDAB/P&amp;Z | Evaluate for 2nd 2014 Large Scale CPA Cycle |</p>
<table>
<thead>
<tr>
<th>WRT Study Issues and Recommendations</th>
<th>Recommended Advisory Board Participation</th>
<th>Staff Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>exempt them in other parts of the City</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Keep private garages in the calculation of FAR but increase the allowance from 200% to 300%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consider reduction of commercial parking requirements in the city's core district to urban standards</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impact of Concurrency requirements which are no longer required by Chapter 163, F.S.</td>
<td>P&amp;Z/Parks &amp; Recreation/Bike-Ped</td>
<td>EAR Based Comp Plan Review</td>
</tr>
<tr>
<td>Consider alternatives to present Concurrency Management requirements no longer provided for in statute. This applies to Transportation, Parks and Recreation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impact of the definition of Floor Area Ration (FAR) on the ability to provide off-street parking in areas in need of revitalization</td>
<td>P&amp;Z</td>
<td>Evaluate for 2nd 2014 Large Scale CPA Cycle</td>
</tr>
<tr>
<td>Application of FAR to residential development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inconsistency in the definition and application of building height between the Comprehensive Plan and the LDC</td>
<td>P&amp;Z</td>
<td>EAR Based Comp Plan Review</td>
</tr>
<tr>
<td>Inconsistency in the application of Planned Unit Residential Development (PURD) between the Comprehensive Plan and LDC</td>
<td>P&amp;Z</td>
<td>EAR Based Comp Plan Review</td>
</tr>
<tr>
<td>Limitation of current Planned Development District on opportunities for creative redevelopment and mixed use in areas in need of revitalization: Consider either increasing the maximum size thresholds or remove existing impediments for properties larger than 3 acres to be considered as a PD</td>
<td>EDAB/P&amp;Z</td>
<td>Evaluate for 1st Large Scale CPA Amendment Cycle</td>
</tr>
<tr>
<td>Consider alternatives to PL zoning districts</td>
<td>P&amp;Z</td>
<td>Evaluate for 1st Large Scale CPA Amendment Cycle</td>
</tr>
</tbody>
</table>
Subject
Downtown Parking Update

motion | recommendation
Staff Recommends Implementation of the Plan

Background

As requested by the Commission, this item is brought forward to provide an update on the creation of 100 additional parking spaces to the downtown parking supply in 12 months. A presentation was made to the commission in June outlining ways to gain that parking. City commission selected the projects as listed below.

West Meadow parking area modification for 12 additional parking spaces. Public Works has designed improvement and construction will be completed by November 30th.

Public Works offices relocation, demolition of the Public Works office building, and the paving of this area for 73 additional parking spaces. Relocation plans have been completed. Modification to accommodate existing staff at other existing facilities will begin in December and be complete by February 28, 2014. Public Works building will be demolished and new parking lot constructed in March 2014 at which time the 73 new parking spaces will be available.

Morse Blvd restriping from Virginia Ave to New York Ave for 36 additional parallel parking spaces. This was to be a trial solution during the holiday season with a future discussion to be made on its permanency. Striping project is on hold pending commission discussion.

New York Ave at Morse Blvd restriping to add 5 additional parking spaces and to improve the Lynx bus eastbound to southbound turning. Striping is on hold pending commission discussion.

Total parking spaces gained, with Morse Blvd – 126, without Morse Blvd - 90

alternatives | other considerations
N/A
**fiscal impact**

The fiscal impact of this plan to implement new parking spaces is estimated to be:
1. West Meadow - $10,000
2. Public Works - $40,000
3. Morse Blvd - $5,000
4. New York Avenue - $2,000

**long-term impact**

Added parking spaces will help fill the parking space deficit that occurs during peak business hours and during special events.
subject

Proposed settlement of auction rate securities claim.

motion | recommendation

This item is a placeholder for a potential settlement proposal in the City of Winter Park vs JP Morgan and Morgan Stanley claim.

background

On June 11, 2012 the City Commission authorized staff through special counsel to file a claim against the lead underwriters of the Water and Sewer Revenue Bonds, Series 2004 and the Electric Revenue Bonds, Series 2005. The claim was filed with the Financial Industry Regulatory Authority and relates to the failed auction rate security market through which these bonds were issued. The minutes of the June 11, 2012 meeting is attached.

The City Manager and Finance Director will be participating in mediation in this case on November 5, 2013 and if a conceptual settlement can be reached it will need to be approved by the City Commission. At the time this agenda packet was released that mediation had not yet been completed. If there is a proposed settlement it will be forwarded to the Commission prior to the November 11th meeting.

fiscal impact

To be determined.
e. Lawyer-Client Agreement with Fishman Haygood, et al regarding claims against underwriters JPMorgan and Morgan Stanley of auction rate securities issued by the City in 2004 and 2005

City Manager Knight explained that the City issued $40,075,000 in Water and Sewer Revenue Bonds, Series 2004 and $49,800,000 in Electric Revenue Bonds, Series 2005. All of these bonds were issued in auction rate security mode. In addition, the City entered into interest rate swap agreements with the same underwriters to synthetically fix the rate on all of the Water and Sewer Bonds and $44,800,000 of the Electric Bonds.

The heart of the City’s claim against the underwriters is that they sold a product (auction rate securities) they were artificially supporting and knew auctions would fail if they discontinued their practice of providing bids to purchase the bonds. When they did discontinue providing supporting bids in February 2008, the market for auction rate security bonds collapsed. As a result, the City incurred excess interest costs, costs to issue replacement fixed rate bonds, and payments to terminate the interest rate swap agreements.

Also, there is a schedule of interest rates paid on the remaining auction rate security bonds that were not refunded at the time the swap agreements were terminated (September 2009). Currently, the only auction rate security bonds outstanding are $16,610,000 in Electric Revenue Bonds. The failed auction rate has been very low (below 0.50%) for quite some time and staff is monitoring the weekly rates on these bonds to determine if they should be refunded with fixed rate debt.

In February 2012, the City authorized the lawyer to file a Statement of Claim with the Financial Industry Regulatory Authority (FINRA) in order to avoid the possibility of a statute of limitations concern since the auctions began failing in February 2008.

The Lawyer-Client Agreement has been reviewed by our City Attorney who was able to secure concessions requiring prior approval of certain costs and a favored nation’s clause that would reduce the lawyer’s contingency fee if the lawyer negotiates a lower fee with another client who issued a similar amount of auction rate securities with a materially similar risk of recovery.

Commission discussion included what options are available, the use of a contingency based arbitration versus retaining our City Attorney to proceed, if the costs incurred could exceed the recovery costs and how much money the City would receive if we proceed with the claim. City Manager Knight and Finance Director Wes Hamil answered questions and Attorney Brown provided legal counsel.

**Motion made by Commissioner Sprinkel to approve the Lawyer-Client agreement; seconded by Commissioner Leary.** After further discussion, Mayor
Bradley advised that he will be voting against this because it does not feel right to him, especially if we cannot make a claim in the court of public opinion. **Upon a roll call vote, Mayor Bradley voted no. Commissioners Leary, Sprinkel, Cooper and McMacken voted yes. The motion carried with a 4-1 vote.**

f. **Potential policy that governs City Commission written communication**

This item was tabled to a future meeting.

**Public Hearings**


Second Reading

Attorney Brown read the ordinance by title. Building Director George Wiggins explained that in addition to the minor editorial changes by the City Attorney regarding the side wall articulation, Commissioner Cooper pointed out that on page 6, section (n)(7) at the beginning of line 3, the word “not” needs to be added and staff concurs with this change.

Mr. Wiggins advised that a resident came before him last week with a proposed change regarding an alternate side setback for narrow lots (65 feet wide or less) with rear parking areas or garages: Provide a side setback of 11 feet on one side to allow driveway access and provide a minimum setback of 6 feet (versus 7) on the other side with a side wall height limit of 11 feet measured from existing grade to the top of the roof sheathing and provide a second floor setback of 10 feet; or as an alternate for lots 60 feet wide or less provide a minimum setback of 8 feet to both floor walls on one side and a minimum setback of 10 feet to both floor walls on the other (driveway) side. He explained that he revised the proposed change for appropriate insertion into the ordinance if approved by the Commission. He mentioned that he does advocate this change.

Discussion ensued regarding the residents proposed change and if it should formally go before P&Z prior to Commission approval. Mr. Wiggins noted that this proposed change was presented to P&Z last week and they supported the change but subject to a site plan review by P&Z.
subject

City Manager’s 2014 performance evaluation.

motion | recommendation

Accept evaluation format and goals for City Manager’s 2014 evaluation.

background

October 1, 2013 the City launched a new electronic performance evaluation system for all employees. The new evaluation system is based on three components.

- Core Values
- Job and Leadership Competencies
- Goals

Core Values are defined as the traits all employees must embody to meet the City’s vision and to provide the professional service our residents, businesses owners and customers have come to expect. The seven core values are: safety, ethics and compliance, communication, customer service, diversity and inclusion, team work, and professionalism.

Job and Leadership competencies are the day to day specific skill each employee must draw from to meet the obligations of their position. Specific skills have been identified for the various levels of leaders in the organization. For example, Executive Leaders will be rated on the following: fiscal accountability, vision, strategic thinking, decisiveness, accountability, developing others, developing collaborative alliances, and influencing/negotiating.

Goals are specific to the individual and to their position. The goals may be designed to meet strategic objectives or may be used to encourage personal development. In the case of the City Manager, the identified goals will generally be strategic objectives agreed upon by a majority of the Commission.

Attached is a compilation of the goals suggested by each member of the Commission as identified on the City Manager’s 2013 evaluation. For each of these goals, the City Manager has proposed how they fit within the structure of the new evaluation method. Also attached are a recommended evaluation form for the coming year and two documents depicting the new evaluation method.
## Compilation of Goals Recommended for City Manager

<table>
<thead>
<tr>
<th>Recommended Goal</th>
<th>Suggested Incorporation in 2014 Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mayor Bradley</strong></td>
<td></td>
</tr>
<tr>
<td>1. Continue to advance the City’s strategic agenda, adding key metrics to review monthly</td>
<td>Include as goal</td>
</tr>
<tr>
<td>2. Lead staff to assure all service are both customer friendly and “best in Florida”</td>
<td>Core values (customer service, teamwork, professionalism) &amp; Executive Leadership Competencies (developing others)</td>
</tr>
<tr>
<td>3. Be involved in major developments and other strategic issues</td>
<td>Executive Leadership Competencies (vision, strategic thinking, influencing/negotiating)</td>
</tr>
<tr>
<td>4. Provide, or have staff provide, professional opinions versus just “responding” when Commissioners ask</td>
<td>Include as goal</td>
</tr>
<tr>
<td><strong>Vice-Mayor Sprinkel</strong></td>
<td></td>
</tr>
<tr>
<td>1. Continue with our strategic initiatives list</td>
<td>Include as goal</td>
</tr>
<tr>
<td>2. Modify the evaluation system</td>
<td>Completed</td>
</tr>
<tr>
<td><strong>Commissioner Cooper</strong></td>
<td></td>
</tr>
<tr>
<td>1. Implement meaningful pension reform</td>
<td>Commission Consensus required</td>
</tr>
<tr>
<td>2. Enforce approved density model for development</td>
<td>Core Values (ethics &amp; compliance) Executive Leadership Competencies (accountability)</td>
</tr>
<tr>
<td>3. Enforce approved ordinances</td>
<td>Core Values (ethics &amp; compliance) Executive Leadership Competencies (accountability)</td>
</tr>
<tr>
<td>4. Provide comprehensive cost benefit analysis for commission decisions.</td>
<td>Include as goal</td>
</tr>
<tr>
<td>5. Provide commission packets presenting all regulatory guidance, pros and cons, and potential consequences of policy decisions.</td>
<td>Executive Leadership Competencies (accountability)</td>
</tr>
<tr>
<td>6. Facilitate meaningful public participation.</td>
<td>Core Value (communication)</td>
</tr>
<tr>
<td>7. Lead effort to secure dedicated funding source for commuter rail.</td>
<td>Commission Consensus required</td>
</tr>
<tr>
<td>8. Implement proactive codes to address:</td>
<td>City Manager cannot implement codes without a policy decision. If there is Commission consensus on these items, City Manager can propose code modifications or new codes for adoption.</td>
</tr>
<tr>
<td>a. Use of our parks and lakes for commercial purposes</td>
<td></td>
</tr>
<tr>
<td>b. Development standards for compatible parking garages</td>
<td></td>
</tr>
<tr>
<td>c. Master Plan process (authority, amendments, public participation.)</td>
<td></td>
</tr>
<tr>
<td>d. Incentivizing preservation of our historic assets.</td>
<td></td>
</tr>
<tr>
<td>e. Facilitate shared drainage, parking etc within existing CP density model.</td>
<td></td>
</tr>
<tr>
<td><strong>Commissioner Leary</strong></td>
<td></td>
</tr>
<tr>
<td>1. Continue to develop staff for the future to ensure maximum institutional knowledge for plan implementation as well as for smooth eventual transition planning.</td>
<td>Executive Leadership Competencies (developing others, strategic thinking) &amp; Core Value (Professionalism)</td>
</tr>
<tr>
<td><strong>Commissioner McMacken</strong></td>
<td></td>
</tr>
<tr>
<td>1. No goals listed</td>
<td></td>
</tr>
</tbody>
</table>
City of Winter Park
City Manager
Annual Performance Evaluation

- Core Values (10%)
- Goals (30%)

Job Skills/Job Competencies (60%)

45 of 50 points

Executive Leadership Competencies

Remaining 15 of 60 points

Non-Leadership Job Skills & Job Competencies
City of Winter Park
Employee Leadership Competencies

Executive Leader
- Fiscal Accountability, Vision, Strategic Thinking, Developing Collaborative Alliances, Accountability, Developing Others, Influencing/Negotiating, Decisiveness

Senior Leader
- Fiscal Responsibility, Decisiveness, Partnering, Accountability, Strategic Thinking, Influencing/Negotiating, External Awareness, Developing Others

Mid-Level Leader
- Team Building, Creativity/Innovation, Accountability, Problem Solving, Partnering, Technical Credibility, Conflict Management

First-Level Leader
- Problem Solving, Accountability, Customer Service, Flexibility, Creativity/Innovation, Technical Credibility
KNIGHT, RANDY
City Manager

Period: 10/22/2012-10/22/2013

Appraisal Due Date: 11/22/2013

<table>
<thead>
<tr>
<th>Unacceptable Performance 1</th>
<th>Lacking Performance 2</th>
<th>Effective Performance 3</th>
<th>Commendable Performance 4</th>
<th>Distinguished Performance 5</th>
</tr>
</thead>
</table>

City of Winter Park Employee Core Values - 10%
Customer Service, Ethics & Compliance, Safety, Teamwork, Diversity & Inclusion, Communication, and Professionalism

Leadership and Job Function Competencies

Executive Leader - 45%
Fiscal Accountability, Vision, Strategic Thinking, Developing Collaborative Alliances, Decisiveness, Accountability, Developing Others, Influencing/Negotiating

Job Function Competencies – 15%
- City Manager-Long Range Planning (Strategic and Comprehensive Plan)
- City Manager-Fiscal Management
- City Manager-Organizational Management
- City Manager-Communications and Public Relations

Goals-30%
- Advance the strategic initiatives.
- Develop monthly Performance Management Report that includes information on key metrics and strategic initiatives.
- Continue “Focus on Quality” through program evaluation, process improvement and resource allocation.
- Provide professional opinions/recommendations and, when applicable, cost benefit analysis for agenda items.

Final Score:
Summary Comments

Signatures

Employee Signature: Date

I have reviewed this document and discussed the contents with my manager. My signature means that I have been advised of my performance assessment. My signature does not necessarily imply that I agree with the evaluation.

Date

Manager Signature

I have provided my evaluation of this employee's job performance. While I have reviewed the employee's comments and examples that does not mean that I agree with them.
Subject: Request of Aloma Avenue Holdings to Rezone 409 St. Andrews Blvd. – SECOND READING

Aloma Avenue Holdings LLC (Dr. Shaw) has acquired the former Signature Pharmacy building at 2304 Aloma Avenue and also the property directly behind, to the south, at 409 St. Andrews Blvd. Their intention is to renovate the Signature Pharmacy building into medical office space and to expand the parking onto the 409 St. Andrews Blvd. property. That property is now zoned residential (R-3) and they are requesting rezoning to office (O-2).

Planning and Zoning Board Recommendation:

Motion made by Mr. R. Johnston, seconded by Mrs. De Ciccio to amend Chapter 58 “Land Development Code”, Article III, “Zoning” and the official zoning map so as to change the existing zoning of multi-family residential (R-3) district to office (O-2) district on the property at 409 St. Andrews Boulevard.

Motion carried unanimously with a 5-0 vote.

Summary:

The existing development on both of these properties is grandfathered-in from development in Orange County prior to annexation by the City in 1992. The Signature Pharmacy building is developed as medical space on the second floor and general office space on the first floor. The property at 409 St. Andrews Blvd. (while zoned R-3) has general office space downstairs and a residential unit upstairs in the existing building. That office business (in R-3 zoning) was likely approved as a special exception in Orange County. The intention is to demolish that building and redevelop 409 St. Andrews as additional parking which is needed to convert the entire former Signature Pharmacy building to medical use.

The construction plans show the detail of the exterior improvements. Retention is being added to these properties as none exists today. Landscaping is being added where none exists today. A new fence to buffer and screen the new parking lot from the adjacent duplexes will be added as no visual buffer exists today. So from the exterior view, this redevelopment of the site and renovation of the building will be an improvement. Staff is providing this explanation of the background for this request but the public hearing is just for the rezoning. The agenda item does not include approval of the specific plans which will still be required to meet the applicable zoning and other codes of the City.
Comprehensive Plan Designation:

Another feature inherited from Orange County and incorporated into the City’s Comprehensive Plan is “Office” future land use on the 409 St. Andrews Blvd. property. That means office zoning is both anticipated by the City and an entitlement to the owner. This request is just for the zoning change from R-3 to O-2 (not any companion Comp. Plan future land use change). Given that the City’s Comprehensive Plan has designated that this property can be zoned office, the City is obligated to follow our Comp. Plan and provide that requested zoning. It is also beneficial to see how that entire property will be improved via this project.
REQUEST OF ALOMA AVENUE HOLDINGS LLC TO: AMEND CHAPTER 58 “LAND DEVELOPMENT CODE”, ARTICLE III, “ZONING” AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE EXISTING ZONING OF MULTI-FAMILY RESIDENTIAL (R-3) DISTRICT TO OFFICE (O-2) DISTRICT ON THE PROPERTY AT 409 ST. ANDREWS BOULEVARD.

Planning Manager Jeffrey Briggs gave the staff report and explained that Aloma Avenue Holdings LLC (Dr. Shaw) has acquired the former Signature Pharmacy building at 2304 Aloma Avenue and also the property directly behind, to the south, at 409 St. Andrews Boulevard with the intention is to renovate the Signature Pharmacy building into medical office space and to expand the parking onto the 409 St. Andrews Blvd. property. That property is now zoned residential (R-3) and they are requesting rezoning to office (O-2). The existing development on both of these properties is grandfathered-in from development in Orange County prior to annexation by the City in 1992. The Signature Pharmacy building is developed as medical space on the second floor and general office space on the first floor. The property at 409 St. Andrews Boulevard (while zoned R-3) has general office space downstairs and a residential unit upstairs in the existing building.

The intention is to demolish that building and redevelop 409 St. Andrews as additional parking which is needed to convert the entire former Signature Pharmacy building to medical use. The construction plans show the detail of the exterior improvements. Retention is being added to these properties as none exists today. Landscaping is being added where none exists today. A new fence to buffer and screen the new parking lot from the adjacent duplexes will be added as no visual buffer exists today. So from the exterior view, this redevelopment of the site and renovation of the building will be a welcome upgrade. Staff is providing this explanation of the background for this request but the public hearing is just for the rezoning. The agenda item does not include approval of the specific plans which will still be required to meet the applicable zoning and other codes of the City. Staff recommendation is for approval.

Sam Saboli, 5127 South Orange Avenue, represented the applicants. He stated that they are in agreement with the staff recommendations. He stated that he was available to respond to Board member questions and concerns.

Lou Nimcoff, 1870 Aloma Avenue, stated that he owns property on Glenwood Ave and pointed out his property on the map for the Board. He expressed concern with the installation of a privacy buffer. Mr. Briggs responded that where the subject property borders residential property a six-foot vinyl fence will be installed.

No one else wished to speak concerning the request. Public Hearing closed.

Mr. J. Johnston confirmed that this rezoning is in conformance with the Comprehensive Plan future land use designation of ‘office’ for this property. The Board noted that the project is an upgrade for the area and will be a nice improvement for the area.

Motion made by Mr. R. Johnston, seconded by Mrs. De Ciccio to amend Chapter 58 “Land Development Code”, Article III, “Zoning” and the official zoning map so as to change the existing zoning of multi-family residential (R-3) district to office (O-2) district on the property at 409 St. Andrews Boulevard. Motion carried unanimously with a 5-0 vote.
ORDINANCE NO.

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, “LAND DEVELOPMENT CODE”, ARTICLE III, “ZONING” AND THE OFFICIAL ZONING MAP SO AS TO CHANGE THE ZONING DESIGNATION OF MEDIUM DENSITY MULTI-FAMILY (R-3) DISTRICT TO OFFICE (O-2) DISTRICT ON THE PROPERTY AT 409 ST. ANDREWS BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the owner of the property more particularly described herein has requested rezoning in compliance with the Comprehensive Plan, and the requested zoning will achieve conformance with the Comprehensive Plan future land use designation for this property, and such municipal zoning meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held; and

WHEREAS, the Planning and Zoning Board and City Staff of the City of Winter Park have recommended approval of this Ordinance at their October 1, 2013 meeting; and

WHEREAS, the City Commission of the City of Winter Park held duly noticed public hearings on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Winter Park Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

WHEREAS, the City Commission hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida.

NOW THEREFORE BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 58 “Land Development Code”, Article III, “Zoning” and the Official Zoning Map are hereby amended so as to change the existing zoning designation of medium density multi-family residential (R-3) district to office (O-2) district zoning on the property at 409 St Andrews Boulevard, property being more particularly described as follows:
Lot 1 (less the Northerly 20 feet thereof) and the Easterly 50 feet of Lot 2 (less the Northerly 20 feet thereof) AND the North 55 feet of Lot 25 and the North 31.5 feet and the East 15 feet of the South 20 feet of the North 51.5 feet of Lot 26 and the North 30 feet of Lot 24, Block 16, Aloma Section 1, as recorded in Plat Book “O”, Page 51 of the Public Records of Orange County, Florida.

Property Tax ID # 09-22-30-0120-16-250

SECTION 2. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 3. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall become effective upon the effective date of Ordinance _________. If Ordinance _________ or if either Section of that Ordinance does not become effective, then that Section or this Ordinance shall be null and void.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of ____________, 2013.

Attest:

__________________________  Mayor

__________________________  City Clerk
subject

Ordinance concerning subsidiary boards of the City – SECOND READING

motion | recommendation

Adopt the ordinance as provided by the City Attorney.

summary

This was brought forward initially by Attorney Brown regarding Senate Bill 50 and the need for public comment to be allowed across the board at meetings.

board comments

N/A
AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA
AMENDING SECTION 2-48, GENERAL RULES APPLICABLE TO
SUBSIDIARY BOARDS OF THE CITY; PROVIDING FOR,
SEVERABILITY, CODIFICATION, CONFLICTS, AND AN EFFECTIVE
DATE.

RECITALS AND LEGISLATIVE FINDINGS

WHEREAS, the City of Winter Park has taken action necessary to assure compliance
with Chapter 2013-227, Laws of Florida;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby adopted and confirmed, and
constitute the legislative findings of the City Commission of the City of Winter Park acting in its
legislative capacity.

Section 2. Section 2-48, General Rules Applicable to Subsidiary Boards of the City
shall be amended by adding a new subsection 2-48(u), as follows:

“Section 2-48. General Rules Applicable to Subsidiary Boards of the City of Winter
Park.

…

(u) All subsidiary boards shall allow for public comment in the manner
required by Chapter 2013-227, Laws of Florida.”

Section 3. Codification and Incorporation Into the Code. This Ordinance shall be
incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any
heading may be changed or modified as necessary to effectuate the foregoing. Grammatical,
typographical and similar or like errors may be corrected, and additions, alterations and
omissions not affecting the construction or meaning of this Ordinance and the City Code may be
freely made.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, word or
provision of this Ordinance is for any reason held invalid, unlawful or unconstitutional by any
court of competent jurisdiction, whether for substantive, procedural, facial or other reasons, such
portion shall be deemed a separate, distinct and independent provision, and such holding shall
not affect the validity of the remaining portions of this Ordinance.

Section 5. Conflicts. All ordinances or parts of ordinances in conflict with any of
the provisions of this Ordinance are hereby repealed.
Section 6. Effective Date Of Ordinance. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the 11th day of November, 2013.

Mayor Kenneth W. Bradley

ATTEST:

Cynthia S. Bonham, City Clerk