

# Report of City Council Action Items

October 8, 2015

**Members Present:** Council President Andy Terhaar, Council Vice President Larry B. Johnson, Charles Bare, Jewel Cannada-Wynn, Sherri Myers, Brian Spencer, Gerald Wingate, and P. C. Wu

**Absent:** None



## CONSENT AGENDA ITEMS

1. MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF PENSACOLA, PORT OF PENSACOLA AND FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) FOR LAND USE CONTROLS

That City Council authorize the Mayor to execute a Memorandum of Agreement and any related documents between the City of Pensacola, Port of Pensacola and the Division of Waste Management, Florida DEP to perform contamination assessments and implement institutional Land Use Controls at the Port of Pensacola. Further, that City Council approve adding the MOA to the Port Terminal Tariff as required by the MOA.

*The motion passed unanimously.*

## REGULAR AGENDA ITEMS

2. INTERLOCAL AGREEMENT BETWEEN THE CITY OF PENSACOLA AND ESCAMBIA COUNTY RELATING TO THE NATIONAL FISH AND WILDLIFE FOUNDATION (NFWF) GRANT FOR THE BAYOU CHICO RESTORATION PROJECT

That City Council approve and authorize the Mayor to execute the Interlocal Agreement between the City of Pensacola and Escambia County relating to the NFWF Grant for the Bayou Chico Restoration Projects at Bill Gregory Park and 'R' Street at Maggie's Ditch. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

*The motion passed unanimously.*

### SUPPLEMENTAL BUDGET RESOLUTION NO. 50-15 – **MOTION TO APPROVE**

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2016; PROVIDING FOR AN EFFECTIVE DATE.

*The motion passed unanimously.*

3. APPOINTMENTS – ARCHITECTURAL REVIEW BOARD

City Council reappointed Nina H. Campbell a planning board member or resident property owner of the Pensacola Historic District, North Hill Preservation District or Old East Hill Preservation District; Susan Campbell a Property or Business Owner in the Palafox Historic Business District; and George R. Mead, II a resident property owner of the Pensacola Historic District, North Hill Preservation District or Old East Hill Preservation District, for a term of two years, expiring September 30, 2017.

*The motion passed by acclamation unanimously.*

4. MARITIME PARK BOARD OF TRUSTEE APPOINTMENT

~~The CMPA board members shall be appointed by direct appointment of City Council Members. Current appointments shall be made by the Council Member at large, followed by individual district representatives beginning with Council District 1. Nothing herein shall prevent a Council Member from serving on the CMPA rather than appointing a non-Council Member.~~

**Substitute Motion:** That City Council direct the City Attorney to draft a resolution that will allow City Council Members to make direct appointments to CMPA Board of Trustees.

*The motion passed 5 – 3. Council Members Cannada-Wynn, Wingate, and Wu dissenting.*

# COUNCIL MEMORANDUM

Council Meeting Date: October 8, 2015



## LEGISLATIVE ACTION ITEM

**FROM:** Ashton J. Hayward, III, Mayor *EJO FOR*

**SUBJECT:** Interlocal Agreement between the City of Pensacola and Escambia County relating to the National Fish and Wildlife Foundation (NFWF) Grant for the Bayou Chico Restoration Project

### RECOMMENDATION:

That City Council approve and authorize the Mayor to execute the Interlocal Agreement between the City of Pensacola and Escambia County relating to the NFWF Grant for the Bayou Chico Restoration Projects at Bill Gregory Park and 'R' Street at Maggie's Ditch. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

**AGENDA:** \_\_\_\_\_ Regular     X  Consent

Hearing Required: Public \_\_\_\_\_ Quasi-Judicial: \_\_\_\_\_ No Public Hearing:  X

### SUMMARY:

The Bayou Chico Restoration Project grant proposal was submitted to NFWF by Escambia County as the lead organization and includes a suite of four (4) separate stormwater sub-projects, totaling \$11,032,250.00, two of which will be constructed by the City of Pensacola. The requested grant was awarded to Escambia County as the primary recipient and the attached interlocal agreement allows for the City to self-manage the two approved sub-projects within the suite at Bill Gregory Park and 'R' Street/Maggie's Ditch with reimbursement directly from Escambia County. The City sub-projects will be fully funded by the NFWF grant through Escambia County in the amount of \$2,180,000 for Bill Gregory Park and \$865,000 for 'R' Street at Maggie's Ditch. These projects will help to meet stormwater treatment goals intended to assist in the restoration of Bayou Chico and support planned restoration activities identified in the Florida Department of Environmental Protection's restoration plan for the Bayou. Expected outcomes include restored and greatly improved benthic habitat quality, increased biological diversity and productivity, and improved water quality to assist in meeting the total maximum daily pollutant loads (TMDL's) established for Bayou Chico. This suite of projects works to fulfill the NFWF focal area to restore and maintain the ecological integrity of priority coastal bays and estuaries.

### PRIOR ACTION:

None

Council Memorandum

Subject: Interlocal Agreement between the City of Pensacola and Escambia County relating to the National Fish and Wildlife Foundation (NFWF) Grant for the Bayou Chico Restoration Project

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**FUNDING:**

Bill Gregory Park Stormwater Sub-Project

Budget: \$2,180,000 (NFWF Grant)

Actual: \$2,180,000 (Estimated)

R Street at Maggie's Ditch Stormwater Sub-Project

Budget: \$865,000 (NFWF Grant)

Actual: \$865,000 (Estimated)

**FINANCIAL IMPACT:**

Approval of the supplemental budget resolution will appropriate the funding for this grant.

**STAFF CONTACT:**

Eric W. Olson, City Administrator

L. Derrik Owens, P.E., Director of Public Works and Facilities/City Engineer

**ATTACHMENTS:**

- 1) Interlocal Agreement between the City of Pensacola and Escambia County, Florida relating to the Bayou Chico Restoration Project
- 2) Supplemental Budget Resolution
- 3) Supplemental Budget Resolution Explanation

**PRESENTATION:**

None

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF PENSACOLA  
AND ESCAMBIA COUNTY, FLORIDA RELATING TO THE BAYOU  
CHICO RESTORATION PROJECT**

**THIS AGREEMENT** made and entered into on this \_\_\_ day of \_\_\_\_\_ 2015, by and between the City of Pensacola, Florida, a municipal corporation organized under the laws of the State of Florida (hereinafter referred to as "City"), with administrative offices located at 222 West Main Street, Pensacola, Florida 32502, and Escambia County, a political subdivision of the State of Florida (hereinafter referred to as "County"), with administrative offices located at 221 Palafox Place, Pensacola, Florida 32502.

**WITNESSETH:**

**WHEREAS**, both the City and County have legal authority to perform general government services within their respective jurisdictions; and

**WHEREAS**, the City and County are authorized by §163.01, Florida Statutes, to enter into interlocal agreements and thereby cooperatively utilize their powers and resources in the most efficient manner; and

**WHEREAS**, the County previously entered into a Project Funding Agreement with the National Fish and Wildlife Foundation (NFWF) to provide funding for the Bayou Chico Restoration Project (hereinafter referred to as "Funding Agreement"), a copy of which is attached hereto and incorporated herein as **Exhibit A**; and

**WHEREAS**, the City and County desire to cooperatively perform a portion of the Work comprising the Bayou Chico Restoration Project with Escambia County serving as the lead jurisdiction for purposes of administrative authority and grant management.

**NOW, THEREFORE**, for and in consideration of the mutual covenants contained herein and of the mutual benefits and for other good and valuable consideration, Escambia County and the City of Pensacola agree as follows:

**ARTICLE 1**  
**Purpose**

1.1 **Recitals**. The recitals contained in the Preamble of this Agreement are declared to be true and correct and are hereby incorporated into this Agreement.

1.2 **Purpose**. This Agreement sets forth the terms and conditions whereby the City and County shall jointly perform a portion of the Bayou Chico Restoration Project to include the Bill Gregory Park Regional Stormwater Treatment Facility Project and the R Street at Maggie's Ditch Stormwater Treatment Enhancement Project (hereinafter referred to as the "Project" or "Projects") as provided herein.

**ARTICLE 2**  
**Responsibilities of the Parties**

2.1 The County shall serve as the direct recipient of Project Funding pursuant to the Funding Agreement with NFWF and reimburse the City for eligible Project costs performed in accordance with the terms of this Agreement and the Funding Agreement. NFWF shall ultimately determine the eligibility of costs related to the project, as outlined in the grant project scope.

2.2 The City shall submit written requests for reimbursement of eligible Project costs already paid or incurred no more frequently than once monthly, and the County shall provide reimbursement once monthly for eligible costs. Requests shall include, at a minimum, the total dollar amount, an itemization by Task and Cost Category of the Project costs, and copies of any payment documentation or other relevant financial documents as may be reasonably required to verify Project costs. Requests for Reimbursement shall be submitted to the County's designated Project Manager at the following address:

To the County:  
Taylor "Chips" Kirschenfeld  
Escambia County Central Office Complex  
3363 West Park Place  
Pensacola, FL 32505

2.3 The City shall complete the individual Tasks comprising the Work identified in the Funding Agreement as follows:

\*Bill Gregory Park Regional Stormwater Treatment Facility Project  
Task 1- Bill Gregory Park Stormwater Project- Pre-Construction  
Task 2- Bill Gregory Park Stormwater Project- Construction  
Task 3- Bill Gregory Park Stormwater Project- Monitoring

\*R Street at Maggie's Ditch Stormwater Treatment Enhancement Project  
Task 4- R Street at Maggie's Ditch Stormwater Project- Pre-Construction  
Task 5- R Street at Maggie's Ditch Stormwater Project- Construction  
Task 6- R Street at Maggie's Ditch Stormwater Project- Monitoring

2.4 The City shall submit a Monthly Report to the County's designated Project Manager with a narrative description of the Work performed to date and certification that the Work performed to date constitutes part of the Project and each Task is proceeding on or under the Task Budget and will be completed on or under the Task Budget.

2.5 As it relates to the performance of Work pursuant to this Agreement, the City represents and warrants as follows:

a. The City shall conduct all activities related to the Work in compliance with applicable laws, regulations, rules, orders, and other governmental mandates,

including, but not limited to, those pertaining to procurement, acquisition, or other contracting actions;

b. The City shall comply with generally accepted policies and procedures applicable to procurement, acquisition, or other contracting actions;

c. The City is qualified to perform the applicable Work and reserves the right to contract and/or subcontract any aspect of the project work, as deemed necessary to complete the adopted project scope and schedule;

d. The City shall perform the applicable Work within budgeted costs as identified for such Work as provided in the Funding Agreement;

d. The City shall maintain appropriate insurance against liability for injury to persons or property from any and all activities related to the Work; and

e. The City does not have any conflict of interest with respect to NFWF, the County, or the Project.

2.6 Upon completion of the Projects described herein, the City shall be responsible for the maintenance of said improvements.

2.7 *Project Funding* as referenced herein is solely available subject to an award from NFWF. County shall have the right to terminate this Agreement and immediately cease all payments related thereto in the event NFWF should fail to award, terminate or cancel said funding after the effective date of this agreement. Upon such occurrence, neither party shall have any responsibility whatsoever for any payments beyond the costs directly paid or reimbursed by NFWF.

2.8 This Agreement shall become effective, after being properly executed by the Parties, when filed in the Office of the Clerk of the Circuit Court of Escambia County. The County shall be responsible for filing the Agreement with the Clerk.

### **ARTICLE 3** **GENERAL PROVISIONS**

3.1 Liability and Insurance. Subject to any claim of sovereign immunity provided by Florida Statutes 768.28, each party to this agreement shall be fully liable for the acts and omissions of its respective employees and agents acting within the course of normal duties in the performance of this Agreement. Each party shall insure its own interests either through appropriate insurance policies or through a self-insurance program. This provision shall not be construed to prevent any claim or action which either party may have against the other.

3.2 Termination. The Agreement may be terminated by either party for cause, or for convenience, upon thirty (30) days written notice by the terminating party to the other party of such termination.

3.3 Records. The parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as

amended. In the event a party fails to abide by the provisions of Chapter 119, Florida Statutes, the other party may, without prejudice to any right or remedy and after giving that party, seven (7) days written notice, during which period the party fails to allow access to such documents, terminate this Agreement.

3.4 Assignment. This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties, without the prior written consent of the other party.

3.5 Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue, for any matter, which is the subject of this Agreement shall be in the County of Escambia.

3.6 Severability. The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion shall be deemed severed from this Agreement and the balance shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

3.7 Further Documents. The parties shall execute and deliver all documents and perform further actions that may reasonably be necessary to effectuate the provision of this Agreement.

3.8 No Waiver. The failure of either party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.

3.9 Notices: All notices required or made pursuant to this Agreement by either party to the other shall be in writing and delivered by hand or by United States Postal Service, first class mail, postage prepaid, return receipt requested, addressed to the following:

**To the County:**

Jack R. Brown  
County Administrator  
Escambia County  
221 South Palafox Place  
Pensacola, Florida 32502

**To the City:**

Ashton J. Hayward, III  
Mayor  
City of Pensacola  
222 West Main Street  
Pensacola, Florida 32502

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this section.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates, under each signature:

**COUNTY:**  
**ESCAMBIA COUNTY, FLORIDA**, a political subdivision of the State of Florida acting by and through its authorized Board of County Commissioners.

By: \_\_\_\_\_  
Steven Barry, Chairman

**ATTEST:** Pam Childers  
Clerk of the Circuit Court

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy Clerk

**CITY:**  
**The City of Pensacola**, a Florida Municipal Corporation

By: \_\_\_\_\_  
Ashton J. Hayward, III, Mayor,

Date: \_\_\_\_\_

**ATTEST:** Ericka Burnett  
Clerk of the City of Pensacola

By: \_\_\_\_\_  
City Clerk

Legal in form and valid as drawn:

By: \_\_\_\_\_  
City Attorney



**RESOLUTION  
NO.**

**A RESOLUTION  
TO BE ENTITLED:**

**A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2016; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA**

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

**A. SPECIAL GRANTS FUND**

To:	Miscellaneous Revenue	3,045,000
To:	Capital Outlay	3,045,000

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: \_\_\_\_\_

Approved: \_\_\_\_\_  
President of City Council

Attest:

\_\_\_\_\_  
City Clerk

THE CITY OF PENSACOLA  
OCTOBER 2015 - SUPPLEMENTAL BUDGET RESOLUTION - BAYOU CHICO STORMWATER GRANT

FUND	AMOUNT	DESCRIPTION
<b>SPECIAL GRANTS FUND</b>		
Estimated Revenues		
Miscellaneous Revenue	3,045,000	Appropriate estimated revenue for Miscellaneous Revenue
Total Revenues	<u>3,045,000</u>	
Appropriations		
Capital Outlay	3,045,000	Appropriate funding for Capital Outlay
Total Appropriations	<u>3,045,000</u>	