AUDITOR GENERAL

WILLIAM O. MONROE, CPA

CITY OF MEXICO BEACH, FLORIDA

OPERATIONAL AUDIT

For the Period October 1, 2001, Through March 31, 2003,

And Selected Actions Taken Prior and Subsequent Thereto

CITY OF MEXICO BEACH, FLORIDA

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ABSTRACT

This abstract highlights the findings of audit report No. 2004-106. The entire audit report should be read for a comprehensive understanding of our audit findings and recommendations.

SCOPE, OBJECTIVES, AND METHODOLOGY

SCOPE

The Auditor General is authorized by State law to perform independent financial and operational audits of governmental entities in Florida. At its March 3, 2003, meeting, the Legislative Auditing Committee (LAC) was presented with a certified petition signed by over 20 percent of the electors of the City of Mexico Beach, Florida (City), requesting that the Auditor General conduct an audit of the City. Pursuant to Section 11.45(2)(a), Florida Statutes, the LAC directed the Auditor General to conduct the audit.

The scope of this audit included transactions during the period October 1, 2001, through March 31, 2003, and selected transactions taken prior and subsequent thereto, to determine whether such transactions were executed, both in manner and substance, in accordance with governing provisions of laws, ordinances, and other guidelines. In some instances, certain allegations required us to examine transactions related to certain specified City officials, employees, or contractors that were the subject of the allegations.

OBJECTIVES

Our audit objectives for the scope of this audit were to:

- Document our understanding of the City's management controls relevant to the areas identified in the scope of the audit. Our purpose in obtaining an understanding of management controls and making judgments with regard thereto was to determine the nature, timing, and extent of substantive audit tests and procedures to be performed.
- Evaluate management's performance in administering its assigned responsibilities in accordance with applicable laws, ordinances, and other guidelines.
- Determine the extent to which the City's management controls promoted and encouraged the achievement of management's objectives in the categories of compliance with applicable laws, ordinances, and other guidelines; the economic and efficient operation of the City; the reliability of financial records and reports; and the safeguarding of assets.

METHODOLOGY

The methodology used to develop the findings in this report included the examination of pertinent records of the City in connection with the application of procedures required by generally accepted auditing standards and applicable standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

SUMMARY OF FINDINGS

This section of our report summarizes the results of our operational audit of the City of Mexico Beach, Florida, for the period October 1, 2001, through March 31, 2003, and selected actions taken prior and subsequent thereto.

GENERAL MANAGEMENT CONTROLS
Finding No. 1: During the majority of the audit period, the City had not established written policies and procedures necessary to assure efficient and effective conduct of accounting and other business-related functions and the safeguarding of assets. Although the City Council, in March 2003, adopted standard operating policies and procedures addressing most critical areas of City operations, these policies and procedures do not address certain instances of noncompliance and management control deficiencies disclosed by our audit.
Finding No. 2: The City had not provided for an adequate separation of duties, or established compensating controls, in certain areas of its business operation.
BUDGETARY CONTROLS
Finding No. 3: The City, for the 2001-2002 and 2002-2003 fiscal year budgets, did not include beginning fund equities available from the prior year for the General Fund, and did not amend the budgets to show actual beginning fund equity balances for the enterprise funds.
Finding No. 4: Contrary to Section 166.241(3), Florida Statutes, actual 2001-2002 fiscal year expenditures exceeded amounts budgeted for certain expenditure object categories for the General Fund and enterprise funds, and exceeded total budgeted expenditures for the General Fund.
CASH IN BANK
Finding No. 5: Certain City bank accounts were not properly and promptly reconciled during the audit period.
Finding No. 6: Accountability for checks for the City's General Fund bank account was deficient in that void checks were not properly defaced and proper accountability was not maintained for all voided checks.
INVESTMENTS
Finding No. 7: City investments in repurchase agreements were not authorized by Section 218.415, Florida Statutes, or the City's investment policy. In addition, the City's investment policy does not contain all of the required elements prescribed by Section 218.415, Florida Statutes.
Finding No. 8: The City could have earned additional interest income of approximately $7,200 by investing with the Florida State Board of Administration.

FIXED ASSETS
Finding No. 9: The City had not established general ledger control accounts for its classes of fixed assets for the General Fixed Assets Account Group. In addition, the City did not maintain adequate subsidiary records for tangible personal property.
Finding No. 10: The City had not, of record, performed a physical inventory of its tangible personal property since some time prior to July 2001 until it performed a physical inventory in March 2003. At the time of our inquiry in August 2003, the City had not, of record, reconciled the physical inventory to the fixed asset records to determine whether differences existed between actual and recorded property.
Finding No. 11: Several surplus property items disposed of during the audit period were not, of record, disposed of in the manner authorized by the City Council. In addition, documentation supporting the sale of several items was not sufficiently detailed and, as such, we could not determine whether the appropriate amount was collected for these items.
Finding No. 12: The City, in selling several impounded or abandoned vehicles, did not comply with Section 705.103, Florida Statutes. In addition, except for one vehicle, amounts received for the sale of these items were not adequately documented through the use of individual receipts and, as such, we could not determine to whom the vehicles were sold and the amounts for which they were sold. In addition, one of the vehicles remains titled in the City's name, exposing the City to possible liability should individuals using the vehicle suffer or cause injury or death.
LONG-TERM DEBT
Finding No. 13: The City, as part of its efforts to obtain financing to refund certain outstanding debt obligations of the City, and to acquire and construct capital improvements for the City's wastewater utility system, obtained financing from various sources, including a $4,190,000 loan from the City of Gulf Breeze. Our review of the City's debt management decisions with regard to these efforts disclosed that the City may have incurred unnecessary financing costs. It was not apparent, of record, why the City borrowed $4,190,000 from the City of Gulf Breeze, since this amount exceeded its documented financing needs by $1,450,424. In addition, it was not apparent, of record, why the City, after it was determined that not all of the loan proceeds would be needed for originally intended purposes, did not promptly pay off some of the principal balance due on the Gulf Breeze loan or pay off other outstanding debts. Further, the variable rate Gulf Breeze loan, and another variable rate loan used to pay closing costs on the Gulf Breeze loan, together comprised 42 percent of the City's total long-term debt at September 30, 2002, which is well in excess of recommended variable rate limits.
Finding No. 14: Ordinance No. 338, and the City's loan agreement with the City of Gulf Breeze, provide that loan proceeds may be used to finance or refinance projects other than those specified in the loan agreement if the City obtains a favorable opinion of bond counsel. Based on documentation provided by the City, we determined that the City used approximately $1.5 million of the Gulf Breeze loan proceeds for purposes not authorized by Ordinance No. 338 and the loan agreement without obtaining prior City Council and bond counsel approval.
Finding No. 15: A liability associated with a State Revolving Fund loans obtained by Bay County on the City's behalf was not reported on the City's financial statements or otherwise disclosed in the notes to the financial statements for the fiscal years ended September 30, 1999, 2000, 2001, and 2002.

RESTRICTED RESOURCES
Finding No. 16: Contrary to 218.33(2), Florida Statutes, the City did not separately account for donations in accordance with the Florida Department of Financial Services' Uniform Accounting System Manual.
Finding No. 17: The City did not timely request reimbursement for a $150,000 expenditure incurred under a grant agreement.
CASH CONTROLS AND ADMINISTRATION
Finding No. 18: The City had not established adequate controls to assure that dockage fees were properly collected and remitted to the City.
Finding No. 19: Prenumbered documents were not used to account for fees collected for fence, sign, and driveway permits.
REVENUES AND OTHER RECEIPTS
Finding No. 20: The City did not assess late fees in the manner required by City ordinances. During the audit period, the City potentially failed to assess and collect $5,628 in late charges related to water and sewer services, and improperly assessed an estimated $4,322 of late charges related to sanitation services.
PERSONNEL AND PAYROLL ADMINISTRATION
Finding No. 21: Our review of personnel records of 12 employees hired between June 2001 and March 2003 disclosed several instances in which the City had not, of record, obtained complete applications, verified application information, or contacted previous employers or references listed in the application.
Finding No. 22: Contrary to City Ordinance No. 431, the Director of Public Works supervised his brother-in-law.
Finding No. 23: Contrary to the Internal Revenue Code, the City classified City Council members as independent contractors rather than as employees and, as such, no employment taxes were withheld or paid on their compensation. As a result, the City could be liable for unpaid employment taxes.
Finding No. 24: Contrary to United States Treasury Regulations, the City did not include certain fringe benefits provided to employees in the employees' Forms W-2, Wage and Tax Statements.
PROCUREMENT OF GOODS AND SERVICES
Finding No. 25: Our audit disclosed expenditures totaling $8,529 for which the City's records did not clearly document that a public, rather than a private, purpose was primarily served. Of this amount, City employees repaid $1,878.

Finding No. 26: Deficiencies in the City's disbursement processing procedures consisted of failure to use purchase requisitions or purchase orders, and a lack of signatures and dates evidencing the receipt, inspection, and approval of goods and services.

Finding No. 27: Contrary to City Ordinances, purchases of goods and services totaling $69,482 were not competitively bid or appropriately approved by the City Council. In addition, it was not apparent, of record, why newspaper advertisements were not used to solicit vendors for these purchases.

CONTRACTUAL SERVICES

Finding No. 28: Contrary to State law, City Ordinances, or good business practices, the City acquired certain contractual services without using a competitive selection process and, in some instances, without benefit of formal written agreements. In addition, invoices submitted by a firm that provided accounting and auditing services were not in sufficient detail to allow a determination as to whether fees charged, and expenses submitted for reimbursement, were appropriate.

TRAVEL EXPENSES

Finding No. 29: The City had not, of record, documented in the manner required by Section 112.061, Florida Statutes, the reasonableness of a $375 monthly travel allowance approved for the City Administrator.

Finding No. 30: For several travel advances paid to employees, the City records did not demonstrate that the travel actually took place and that the actual expenses were at least as much as those anticipated on the travel advance request. In addition, some travel expense payments were not consistent with Section 112.061, Florida Statutes, or good business practices.

VEHICLE USAGE

Finding No. 31: The City, for vehicles assigned to employees on a 24-hour basis, did not require maintenance of vehicle usage logs to demonstrate that the vehicles were used primarily for a public purpose, and used only incidentally for the personal benefit of the employees, and to provide a means for determining the value of personal usage to be included in the employees' gross income reported to the Internal Revenue Service.

VOLUNTEER FIRE DEPARTMENT

Finding No. 32: Contrary to generally accepted accounting principles, the City's Volunteer Fire Department, a nonprofit corporation, and a component unit of the City, was not reported in the City's audited financial statements for the fiscal years ended September 30, 2000, 2001, and 2002.

Finding No. 33: Although Attorney General opinions indicate that organizations such as the City's Volunteer Fire Department (i.e., private entities created by public agencies and acting on behalf of public agencies in the performance of their public duties) are subject to the Sunshine Law (Section 286.011, Florida Statutes), meetings of the City's Volunteer Fire Department were not advertised or other public notice given.

Finding No. 34: The City's Volunteer Fire Department had not implemented adequate controls over donations received.

OTHER MATTERS
Finding No. 35: The City, from December 1997 to May 1999, issued $25,815,000 in bonds, the proceeds of which were to be loaned to nonprofit corporations to finance the cost of the acquisition, renovation, construction, and equipping of public service facilities in the State of Florida. Our audit disclosed certain deficiencies regarding the City's oversight and administration of these bond issues.
Finding No. 36: In July 2003, the City Council approved a letter of understanding between the City and a development corporation (Corporation) that provides for the City to improve and use approximately 5 acres of the Corporation's property for a period of no greater than two years, and for all improvements to the property, upon termination of the two-year period, to be owned by the Corporation. The City subsequently entered into a renewable two-year lease with the Corporation for use of the property at a rate of $1 a year, and the lease requires that an easement be granted to the City before use of the property can begin. Although we were advised that the Corporation has not granted an easement to the City, improvements had already been made to the property, and a total of at least $125,000 of improvements to the property were planned. The City had not demonstrated, of record, that this arrangement was the most economically viable option.
Finding No. 37: Regarding the City of Mexico Beach Beautification Project, a nonprofit organization formed to accept donations for "Tom Sawyer Day" (an event held each March in which participants donate their time in beautifying the City's parks), our audit disclosed several factors indicating that individuals that made contributions for Tom Sawyer Day may have believed it was the City to which they were making contributions.
Finding No. 38: The minutes for several City Council meetings were not timely approved; one meeting was not properly noticed; and one meeting was not held within the City's jurisdiction in a place that was readily accessible by the public.

The City's written responses to the audit findings and recommendations in audit report No. 2004-106 are included under the applicable findings and recommendations.

FINDINGS AND RECOMMENDATIONS

General Management Controls

Finding No. 1: Written Policies and Procedures

Written policies and procedures, which clearly define responsibilities of employees, are essential to provide both management and employees with guidelines regarding the efficient and consistent conduct of City business and the effective safeguarding of the City's assets. In addition, written policies and procedures, if properly designed, communicated to employees, and effectively placed in operation, provide management additional assurances that City activities are conducted in accordance with applicable laws, ordinances, and other guidelines, and that City financial records provide reliable information necessary for management oversight. Written policies and procedures also assist in the training of new employees.

Our review of City operations disclosed that during the majority of the audit period, the City did not have written policies and procedures formally adopted by City Council for many of its accounting and other business-related functions during most of the audit period. Written procedures were not available to document controls over budgets, revenues, fixed assets, accounts receivable, payroll processing, disbursement processing for some transactions (e.g., travel and communication expenses), vehicle usage, and grants administration. Instances of noncompliance or inadequate management controls, which may have resulted, at least in part, from a lack of written policies or procedures, are discussed in subsequent findings.

The City Council adopted standard operating policies and procedures addressing accounting and business-related functions in Resolution No. 2003-5, dated March 11, 2003. The Resolution indicated that it would take time to fully implement the policies and procedures into the daily operations of the City, but that such policies and procedures should be in effect no later than July 1, 2004. Most critical areas of City operations are covered in these newly adopted policies and procedures; however, these policies and procedures do not address certain instances of noncompliance and management control deficiencies disclosed by our audit (e.g., Finding Nos. 12, 13, 14, 16, 17, 18, 19, 25, 33, and 34).

Recommendation: The City Council should ensure that the written policies and procedures adopted pursuant to Resolution No. 2003-5 are implemented at the earliest possible date, and that such policies and procedures address the instances of noncompliance and management control deficiencies discussed in this report.

City Response

The City Council adopted comprehensive written policies and procedures concerning areas of critical concern on March 11, 2003, by Resolution No. 2003-05. This adoption occurred during the audit period and before the actual field audit by the Auditor General. Many of the adopted policies and procedures were already in full force and effect by the City staff before the audit occurred although no formal adoption had been made by the City Council. The City already has implemented most new written policies and procedures and the remaining new policies and procedures will be implemented on or before July 1, 2004.

Finding No. 2: Separation of Duties

The City, to the extent possible with existing personnel, should separate duties so that no one employee has access to both physical assets and the related accounting records, or performs all essential phases of a transaction.

Failure to adequately separate duties increases the possibility that errors or irregularities could occur and not be promptly detected. Our review of the City's controls relating to the areas included within the scope of our audit disclosed inadequate separation of duties as follows:

- ***Collections Other Than Utility Collections***. Collections other than for utility payments were processed by the City Clerk, who issued receipts, prepared bank deposits, and recorded collections to the accounting records. The City Clerk also issued occupational and fishing licenses. There was no independent reconciliation of collections of record to amounts deposited per validated deposit slips, nor was there an independent reconciliation of occupational and fishing licenses issued to collections of record.

- ***Disbursement and Payroll Processing***. The City Clerk was responsible for recording payroll data in the accounting system from source documents, posting changes in rates of pay, and adding new employees to, and removing terminated employees from, the payroll system. The City Clerk was also responsible for preparing payroll checks issued from General Fund bank accounts (and has temporarily been assigned responsibility for issuing other checks since February 2003 because of employee turnover), reconciling the General Fund bank accounts, and maintaining custody of unclaimed payroll checks. The City Clerk was also one of three individuals authorized to sign checks drawn on all bank accounts. Although the City Administrator indicated that he checks all accounts for unusual activity each month, and that an independent review is done of bank reconciliations prepared by the Clerk, these reviews were not documented of record.

Although we recognize that the City has limited staff available, making it difficult to adequately separate these functions, some risk related to inadequate separation of duties can be mitigated through the implementation of compensating controls such as an independent comparison of amounts that should have been collected to actual amounts collected and deposited. However, the City had not always implemented, of record, such compensating controls as discussed above and in Finding Nos. 18 and 19.

Recommendation: The City should, to the extent possible, separate duties so that one employee does not have control of all aspects of a transaction (i.e., both recording responsibility and custody of assets). The City should also ensure that adequate compensating controls are implemented to help mitigate circumstances in which adequate separation of duties is difficult with existing staff.

City Response

On March 11, 2003, by Resolution No. 2003-05, the City adopted comprehensive written policies and procedures, including Standard Operating Procedure ("SOP") GEN-02 Separation of Duties, which specifically addresses this finding. SOP GEN-02 specifically addressed collections of general fund monies and payroll processing. In addition to the requirements of SOP GEN-02, the City Council has authorized a separate bank account for payroll processing. Also, the City presently requires, and required during the entire audit period, two or more signatures on each City check. Typically, checks are executed by two, separate city council members and not the City Clerk. The City Council also is considering hiring an additional fulltime staff person to allow better separation of duties in this and other areas; however, given the small size of the City desired separation of duties is not always achievable and cost effective. The Mayor or Mayor pro tem may be requested to review in writing all necessary bank reconciliations.

Budgetary Controls

Section 166.241(3), Florida Statutes, contains requirements for the adoption and implementation of budgets of municipalities. The City Council adopted and amended budgets for all funds for the 2001-2002 and 2002-2003

fiscal years. Our review disclosed control deficiencies or noncompliance with applicable law in the preparation and implementation of the budget as discussed in the following paragraphs.

Finding No. 3: Budget Preparation

Section 166.241(3), Florida Statutes, states that the amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total appropriations for expenditures and reserves. Our review of budgets prepared by the City for the 2001-2002 and 2002-2003 fiscal years disclosed the following:

- Although the City included amounts carried over from prior fiscal years in its budgets for enterprise funds (i.e., the Water, Sewer, and Sanitation Funds), it did not include amounts carried over from prior fiscal years in the General Fund budgets for the 2001-2002 and 2002-2003 fiscal years. According to the City's audited financial statements, total ending fund equities for the General Fund were $608,334 and $692,948, as of September 30, 2001, and 2002, respectively.
- Amounts shown in the City's original and amended enterprise funds budgets as available from the prior fiscal year were $621,880 and $722,667, respectively, for the 2001-2002 fiscal year. According to the City's audited financial statements, total ending fund equity for the enterprise funds was $152,741 as of September 30, 2001, including reserves of $138,180.
- The amount shown in both the City's original and amended enterprise funds budgets as available from the prior fiscal year was $905,518 for the 2002-2003 fiscal year. According to the City's audited financial statements, total ending fund equity for the enterprise funds was $724,158 as of September 30, 2002, including reserves of $182,069.

Because original budgets are prepared prior to the end of the preceding fiscal year, estimates are used. However, once the actual amounts are known, budgets should be amended to reflect actual funds available from the prior fiscal year. The enterprise funds budgets were amended on September 9, 2002, for the 2001-2002 fiscal year and on April 8, 2003, for the 2002-2003 fiscal year; however, no amendments were made to reflect actual beginning fund equities for those fiscal years.

Fund equity represents a governmental entity's net available resources. Failure to consider beginning fund equities in the budget diminishes the City's ability to determine appropriate increases/decreases in revenues or expenditures that may be needed for the fiscal year for which the budget is being adopted. If balances brought forward are significantly overestimated, the amount of taxes or other revenue sources contemplated in the proposed budgets may be insufficient to carry out planned expenditures or to establish reserves.

Recommendation: The City should, pursuant to Section 166.241(3), Florida Statutes, ensure that future annual budgets consider all beginning fund equities. The City should also implement procedures to assure that estimates of beginning fund equities are reasonable, and that budgets are amended to show actual ending fund equities.

City Response

The City will make every effort to accurately estimate amounts to be carried over from the prior fiscal year for both enterprise and general fund budgets; however, these amounts cannot be determined before the adoption of the general fund budget and still meet the requirements of F.S. 166.241(3). Once the actual amounts are known to the City, it will amend its budget(s) as required by law. The City has a written budget policy, SOP BGT-02, which it will review and amend if necessary.

Finding No. 4: Budget Overexpenditures

Section 166.241(3), Florida Statutes, requires governing bodies of municipalities to adopt a budget each year, and provides that the budget must regulate expenditures of the municipality and that it is unlawful for any officer of a municipal government to expend or contract for expenditures in any fiscal year except in pursuance of budgeted appropriations. However, it does not establish the level of detail at which budgeted appropriations are to be made.

The City Council, in adopting the 2001-2002 fiscal year budget by Ordinance Nos. 395, 396, 397, and 403, established the legal level of budgetary control at the object level. Our review of the City's accounting records disclosed 12 and 16 object level expenditure category budget overexpenditures totaling $40,182 and $40,773 in the General Fund and enterprise funds, respectively, for the 2001-2002 fiscal year. In addition, we noted that the City's total actual expenditures for the General Fund for the 2001-2002 fiscal year exceeded the total budgeted expenditures by $31,441. The City Administrator indicated that many of the overexpenditures in the General Fund were due to adjustments made by the City's contracted auditor; however, such adjustments only accounted for $18,350 of the overexpenditures. The City Administrator also indicated that overexpenditures in the enterprise funds resulted from underestimated or unexpected expenditures. We understand that unexpected or understatements of expenditures can occur; however, in the absence of budget amendments to accommodate such situations, the expenditures are not authorized under Section 166.241(3), Florida Statutes.

Recommendation: Although the City had available resources for the 2001-2002 fiscal year to offset the above-noted overexpenditures, the City, in accordance with Section 166.241(3), Florida Statutes, should ensure that expenditures do not exceed budgetary authority.

City Response

Pursuant to SOP BGT-02, as part of Resolution 2003-05, the City specifically addressed in writing the budgetary level of control delegated to its staff and the process of amending the budget(s) during the fiscal year as needed and in accordance with F.S. 166.241(3). The City Council routinely amends its budget as part of its approval of any unanticipated expenditures.

Cash in Bank

Finding No. 5: Bank Reconciliations

An essential element of control over assets entrusted to a governmental organization is the periodic comparison of assets actually determined to be on hand with the recorded accountability for the assets. Accountability for cash on deposit with banking institutions is accomplished through the preparation of bank reconciliations as soon as possible after the receipt of monthly bank statements. In the event of a loss, failure to reconcile bank accounts to the City's accounting records could result in delays in recovering the loss.

Our test of the March 2003 bank reconciliation for the City's General Fund bank accounts disclosed that it was not mathematically accurate, did not include a check outstanding for $500, and the adjusted bank balance was $1,284.16 greater than the general ledger balance.

The City has held the proceeds from a loan obtained in 1997 (see Finding No. 13) in an account at a bank in Orlando, Florida. The account is used for investment of the loan proceeds, and to accept monthly deposits from the City to be used in making monthly payments on behalf of the City on the loan. As also noted in the City's

2001-2002 fiscal year annual financial audit report, our review disclosed that the City was not performing bank reconciliations for this account. Although some of the activity within the account is recorded in the City's records, the City was not verifying the transactions and balances reported by the bank and comparing them to the City's records. In addition, our review of transactions initiated by the City and those reported in the monthly bank statements disclosed the following:

- The City transferred amounts each month during the audit period to the bank to make the monthly payments on the loan; however, the bank had not reflected 3 of the 18 deposits made by the City, totaling $44,914, in the monthly bank statements as of April 30, 2003. The payments not reflected were made in October and November 2001 and October 2002. In addition, according to the bank statements, the bank only made 15 of the 18 payments due on the loan on behalf of the City. Had these accounts been reconciled on a monthly basis, these omissions could have been discovered timely.

- Although City staff recorded some of the transactions related to the activity in the bank accounts, the accounts and balances related to these accounts are not properly reflected in the City's records. For example, the cash balance in the account has not been updated to reflect current year activity. According to the March 31, 2003, bank statement, the cash balance was $429,689 whereas the balance reported in the City's general ledger was $412,505 (the balance as of September 30, 2002). Since the bank did not record all transactions that should have been included (as described above), neither the balance per the bank nor the balance per the City's records was correct as of March 31, 2003.

The City, in response to the finding included in its 2001-2002 annual financial audit report, stated that steps were being taken to reconcile the activity on a monthly basis; however, in response to our inquiries, the City Administrator indicated that these bank reconciliations cannot be performed by City staff because of the complicated accounting, and that the City's contracted auditors prepare the reconciliation for the City each year.

Recommendation: The City should ensure that proper bank reconciliations for all bank accounts are performed timely and accurately. Regarding the bank account used to account for the loan proceeds, the City should ensure that omissions from the bank statements or failure to make loan payments on behalf of the City are timely corrected by the bank.

City Response

The bank reconciliation findings discussed herein deal only with the loan proceeds from the Gulf Breeze Bond, issued in 1997, for financing of the City's sewer system and related infrastructure, and not with the standard bank accounts of the City. The complicated nature of this transaction is discussed in detail by the State Auditor in its Finding Nos. 13-15. The City has hired an independent accounting firm that will handle all monthly bank reconciliations on this account in the future, along with other transactions. The problems with the bank statement reconciliations derive primarily from incorrect statements issued by the banking institution, not the City, and this has been resolved with the assistance of our independent accounting firm.

Finding No. 6: Check Processing

The City uses one bank account for most of its General Fund activity, including payroll transactions. Our review of the accountability for checks used for this account disclosed the following deficiencies:

- ***Voided Checks.*** Our review of the voided checks file maintained for this account disclosed that, although this file is maintained in a locked safe, many checks contained therein were not marked as void

or otherwise defaced. Some of the checks not marked as void within the file were payroll checks that had been signed by authorized signatories of the account.

- ***Checks Unaccounted For.*** Our review of checks issued from this account during the audit period disclosed that a total of 117 checks were unaccounted for (i.e., did not subsequently clear the bank and were not otherwise canceled or voided of record). Upon inquiry, the City Administrator indicated that these were voided checks that had been destroyed; however, we were not provided with evidence of their destruction. He also noted that the City's policy now is to retain any voided checks.

The above-noted control deficiencies over checks issued in this account, together with the lack of separation of duties as noted in Finding No. 2, increase the possibility of unauthorized disbursements.

Recommendation: The City should ensure that voided checks are retained and are properly marked as void or otherwise defaced, and maintain proper accountability for all voided checks.

City Response

The City now retains all voided checks and stamps such checks six times as "voided" on the face of the check. The City will review this procedure with its independent accounting firm to insure its reliability and follow the requirements of SOP CSH-103 dealing with problem checks. Past checks that were unaccounted for were destroyed and now will be retained as set forth above. None of these destroyed checks revealed any attempted wrongful deposits or endangered funds of the City.

Investments

Section 218.415, Florida Statutes, governs the investment of surplus funds by local governments. Investment activity by a local government must be consistent with a written investment plan, that includes certain specified elements, adopted by the governing body or, in the alternative, such activity must be conducted in accordance with Section 218.415(17), Florida Statutes. That Section authorizes investments in the Local Government Surplus Funds Trust Fund administered by the Florida State Board of Administration (SBA); any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act, as provided by Section 163.01, Florida Statutes; money market funds; interest-bearing time deposits or savings accounts; and direct obligations of the United States Treasury.

Finding No. 7: Investment Policy

Entities opting to invest other than as prescribed by Section 218.415(17), Florida Statutes, must adopt a written investment policy that includes the elements specified by Section 218.415, Florida Statutes. These elements include scope, investment objectives, performance measurements, prudence and ethical standards, list of authorized investments, maturity and liquidity requirements, portfolio composition, risk and diversification, list of authorized institutions and dealers from whom securities may be purchased, provisions regarding third-party custodial and master repurchase agreements, bid requirements, internal controls, continuing education, and reporting.

The City had no formal investment policy prior to March 11, 2003, when the City Council passed Resolution No. 2003-5, which provided for Comprehensive Standard Operating Procedures, including policies and procedures relating to investment of surplus funds. According to the new investment policy, acceptable investment vehicles include the Local Government Surplus Funds Trust Fund, money market accounts, interest-bearing time deposits,

savings accounts, and direct obligations of the United States Treasury. Our audit disclosed that the City was not in compliance with Section 218.415, Florida Statutes, as follows:

- During part of the audit period, the City invested the proceeds from a loan (see Finding No. 13) in a Guaranteed Investment Contract (GIC) through a bank. Because the original contract was dated April 13, 1999, the City was authorized to invest in the GIC pursuant to Section 218.415(20), Florida Statutes, which states that any public funds subject to a contract or agreement existing on October 1, 2000, may not be invested contrary to such contract or agreement. On February 5, 2002, the bank advised the City that the GIC was scheduled to expire on April 9, 2002, and a reinvestment decision would need to be made prior to the expiration date. The funds from the expired GIC were subsequently invested in a repurchase agreement with the bank effective April 9, 2002. The City was not authorized to invest the funds from the expiring GIC in the repurchase agreement because it did not have a written investment policy adopted by the City Council prior to March 11, 2003, and, therefore, was restricted to the investments authorized by Section 218.415(17), Florida Statutes. Additionally, the City's new investment policy does not include authorization to invest in repurchase agreements.

- Because the City did not limit its investments to those authorized in Section 218.415(17), Florida Statutes, it was required to adopt a written investment policy that included the elements prescribed by Sections 218.415(1) through (15), Florida Statutes. Although the City's new investment policy provides for a system of internal control, some operational procedures, and authorized investments, it does not contain all of the required elements prescribed by Section 218.415, Florida Statutes. For example, the City's investment policy does not address maturity and liquidity requirements, portfolio composition, or risk and diversification, contrary to the requirements of Section 218.415, Florida Statutes.

Recommendation: The City should either amend its investment policy to include authorization to invest in repurchase agreements and all elements required by Section 218.415, Florida Statutes, or terminate its repurchase agreement and invest in only those investments authorized by Section 218.415(17), Florida Statutes.

City Response

The investment policy findings discussed herein deal only with the loan proceeds from the Gulf Breeze Bond, issued in 1997 for financing the City's sewer system and related infrastructure. The complicated nature of this transaction is discussed in detail by the State Auditor in its Findings Nos. 13-15. Although any investment policy will be used for all funds managed by the City, these findings only deal with the Gulf Breeze loan proceeds. The City previously adopted relevant policies and procedures dealing with investment options (SOP CSH-109). The City will review and amend such policies as may be necessary or re-invest the Gulf Breeze funds in accordance with its existing investment policies and in accordance with F.S. 218.415(17). The City also is considering re-financing the entire Gulf Breeze bond debt.

Finding No. 8: Investment Earnings

Excluding amounts invested in the GIC and repurchase agreement as discussed in Finding No. 7, the City maintained surplus money in various interest-bearing and non-interest-bearing bank accounts. Our review of the City's investment of surplus funds disclosed the following:

- During the period October 1, 2001, through March 31, 2003, the City earned approximately $48,500 in interest, excluding interest earnings from the GIC and repurchase agreement. Based on information

obtained from the City's monthly bank statements, and using the lowest balance held per account per month, we determined that the City could have earned additional interest of approximately $4,300 had it invested surplus moneys with the SBA.

- As noted in Finding No. 7, the City invested the funds in a repurchase agreement upon expiration of the GIC in April 2002. The proceeds from the GIC totaled $1,016,314 on April 9, 2002, according to the bank statement. The investment earnings from the repurchase agreement from April 9, 2002, through March 31, 2003, totaled approximately $6,100. Had these funds been invested with the SBA from April 9, 2002, through March 31, 2003, the City would have earned approximately $2,900 more in investment earnings, in addition to the additional earnings noted above.

Recommendation: To maximize interest earnings on surplus City funds, the City should, when appropriate, make investments through the SBA or in other authorized investments offering competitive returns consistent with safety and liquidity requirements.

City Response

As discussed above in Response No. 7, the City previously adopted a written investment policy by Resolution 2003-05, SOP CSH-109. Under that policy, the City Clerk checks the FSBA interest rate on a monthly basis to determine if it is competitive with existing investment rates used by the City for surplus cash amounts. Since this policy was initiated in early 2003, the SBA rate has not been competitive with existing non-SBA City investments. The City will continue to apply this policy and check the SBA rate on a monthly basis. With regard to the GIC for investment of the Gulf Breeze proceeds, such funds are restricted pursuant to the terms of the loan agreements. The City, apparently, adopted by ordinances and resolutions from 1997 through 2001 the investment parameters of the Gulf Breeze loan agreements. Part of those loan agreements include the options for investment and re-investment, which may serve as the adopted investment "policy" for the City at that time. The City is investigating the possibility of re-financing the entire Gulf Breeze debt and will seek advice of bond counsel as to the proper investment categories until re-financing can occur.

Fixed Assets

The City's audited financial statements reported fixed assets totaling $13,525,491 (net of depreciation) as of September 30, 2002, consisting of $10,894,968 for enterprise funds, and $2,630,523 for the General Fixed Assets Account Group. Our review of the City's controls over fixed assets disclosed several deficiencies as discussed below.

Finding No. 9: Fixed Asset Records

To ensure proper accountability and safeguarding of fixed assets, the City should maintain an adequate record of, and properly identify, each item owned. As also noted in the City's annual financial audit reports for the fiscal years ended September 30, 2001, and 2002, the City's fixed asset records were incomplete. Our audit tests disclosed the following deficiencies in the City's property records:

- ***Control Accounts.*** General ledger control accounts were established for enterprise funds fixed assets; however, there were no general ledger control accounts established for the General Fixed Assets Account Group. Control accounts are summary accounts intended to provide a basis for accountability, for reported fixed assets, and entries to control accounts should be posted contemporaneously with entries to the subsidiary records.

- ***Asset Recording.*** Not all assets appear to be recorded in the subsidiary records. For example, as of April 29, 2003, a brush truck obtained through Federal surplus property in May 2001 was not recorded in the subsidiary records. According to the City Clerk, donated assets or other assets otherwise acquired at no cost to the City are not recorded in the subsidiary records. Although the brush truck was acquired at no cost to the City, pursuant to generally accepted accounting principles, such assets should be recorded at their estimated fair market value on the date of acquisition. We also noted that the subsidiary records did not reflect 19 of 21 surplus tangible personal property items disposed of during the audit period (see Finding No. 11). In addition, construction in progress, totaling $2,775,032 as of September 30, 2002, was reported on the City's 2001-2002 fiscal year audited financial statements, but not recorded in the enterprise funds subsidiary records.

- ***Asset Classification.*** Although general fixed assets reported in the audited financial statements for the fiscal year ended September 30, 2002, agreed in total to general fixed assets reported in the subsidiary records, totals by asset classification did not agree. For example, buildings and improvements reported in the audited financial statements totaled $701,212 whereas buildings and improvements reported in the subsidiary records totaled $892,571, an unexplained difference of $191,359. We also noted asset classification differences in the enterprise funds. Buildings reported for enterprise funds totaled $10,606 in the audited financial statements and $149,117 in the subsidiary records, an unexplained difference of $138,511.

- ***Lack of Necessary Information in the Property Records.*** In many instances, the subsidiary records did not disclose all of the information necessary to properly identify and evidence the establishment of accountability for property items. Missing information included name, make, or manufacturer; model number; serial number; method of acquisition and, for purchased items, the vendor and check number; the custodian with assigned responsibility for the item; and method of disposition, if applicable.

The deficiencies noted above weaken the City's control over fixed assets, and increase the possibility that errors or loss of property could occur and not be detected in a timely manner.

Recommendation: The City should establish general ledger control accounts for general fixed assets and ensure the proper recording of all assets, including asset classifications, asset descriptions, and acquisition and disposal information in the subsidiary records. The City should also determine the estimated values of donated assets on the dates of acquisition and record them in the fixed asset subsidiary records if the fair value exceeds the City's capitalization threshold.

City Response

Pursuant to Resolution No. 2003-05, the City adopted SOPs FA-101 and FA-102 which address general ledger control accounts, recording of assets, asset classifications, asset descriptions, and acquisition/disposal information. The City has inventoried all the fixed assets of the general fund and the enterprise funds over the last two years and has substantially completed data entry of this information into its IMS computer system. Delays with the system have delayed this process, but the City has resolved these delays. The lack of historical fixed asset records also have caused a delay in recording and verifying this information. The City has discovered no loss of properties during the audit period.

Finding No. 10: Tangible Personal Property Inventory

The City had not, of record, performed a physical inventory of its tangible personal property since some time prior to July 2001 until it performed a physical inventory in March 2003. However, at the time of our inquiry in August 2003, the City had not, of record, reconciled the physical inventory to the fixed asset records to determine whether differences existed between actual and recorded property. Effective controls over tangible personal property include comparisons of detailed property records with existing assets at reasonable intervals, and appropriate action with respect to any differences.

Recommendation: The City should ensure that a complete physical inventory of all tangible personal property is taken annually, and the results promptly reconciled to the City's property records.

City Response

See Response No. 9, above. The City annually updates its fixed assets in accordance with its written policies and procedures.

Finding No. 11: Sale of Surplus Property

The City disposed of 21 surplus tangible personal property items during the audit period, including 17 items sold, 3 scrapped, and 1 used for parts. On April 9, 2002, the City Council approved the disposal of these items by "public bid, sale, or auction." In April 2002, the City advertised in a local newspaper that it was accepting sealed bids for the items. Our review of the City's procedures for disposing of these assets disclosed the following deficiencies:

- Three items, a dumpster with an original cost of $5,820 and two items (a boat hull and deck boat) for which original cost information was not available, were scrapped without City Council's approval.
- Although requested, we were not provided with bids for 10 of the 17 items sold. Additionally, for the 7 items for which bids were provided, generally only one bid per item was provided for our examination. According to the City Clerk, the City only retained the bid submitted by the highest bidder. As a result, the City did not demonstrate in its public records that the highest bidder was awarded the sale. In addition, failure to retain these documents is contrary to Chapter 119, Florida Statutes, which requires that the City maintain public records that are, with some exceptions, open for public inspection.
- Receipts for items sold did not always identify the property item sold. As such, we could not determine whether a receipt was issued for each item sold and the appropriate amount collected for each item.
- A total of 4 items were sold to one individual for $500. According to the list of items provided by the City for potential bidders, the minimum bids on 3 of the 4 items totaled $1,400 (there was no minimum bid for the fourth item), and the actual bid received for 1 of the 4 items was for $551. Upon inquiry, the City Administrator indicated that the item for which the bid was placed at $551 was found to be broken and in greater disrepair than assumed. However, there was no documentation, of record, to support this. Nor was it apparent, of record, why the City did not receive the minimum bid amounts for the other items.
- The minimum bid for one item, a 20-ton crane, was listed as $3,000. The crane was sold in November 2002 for $1,750 without re-advertisement or re-bidding with a revised minimum bid.

- The bid for one item sold for $301 was made by an individual different than the individual to whom the item was sold as indicated on a receipt for payment, which indicates that the item was possibly sold to someone other than the bidder. Upon inquiry, the City Administrator indicated that the individual to whom the item was sold had placed a bid for the item; however, we were not provided with a bid from this individual.

Recommendation: The City should ensure that disposals of surplus tangible personal property are authorized, conducted fairly, and properly documented.

City Response

The City has addressed potential record-keeping deficiencies by Resolution 2003-05 in SOPs FA-101 and PUR-101, including bidding procedures. The City has mandated that a certain minimum documentation be kept as a public record relating to sale or disposition of assets. As to the specific items referenced in this Finding where bids were not available, it would appear that the State Auditor was given all bids that were made on the properties in question and many of the items that were bid on received only a single bid. Thus, there were no competing bids to produce or related records. The items placed for bid as surplus typically were old, unusable, and extremely low-valued items.

Finding No. 12: Sale of Abandoned Property

Section 705.103, Florida Statutes, prescribes the procedures required for abandoned or lost tangible personal property present on public property. After performing a series of required procedures, the local or State governmental unit can retain the property, trade it to another local or State government, donate it to a charitable organization, sell it, or notify the appropriate refuse removal service.

Pursuant to Section 705.103(2)(b)2., Florida Statutes, if the property is sold, it must be done through a public sale by competitive bids. The notice of public sale and the bill of sale are required to include a statement that the sale is subject to any and all liens. Section 705.103(3), Florida Statutes, requires that proceeds from the sale, excluding the costs of transportation, storage, and publication of notice, be deposited into an interest-bearing account within 30 days from the date of the sale and held for one year. The rightful owner of the property may claim the balance of the proceeds within one year from the date of deposit. However, if no rightful owner comes forward with a claim within the designated year, the balance of the proceeds must be deposited into the State School Fund administered by the State Commissioner of Education.

In April 2002, the City Council, in addition to the 21 surplus property items disposed of as discussed in Finding No. 11, also approved the sale of five Public Safety Department vehicles by "public bid, sale, or auction." The City Administrator, in May 2003, advised us that these were impounded or abandoned vehicles. According to the City's records and the audited financial statements, the total received for the sale of these vehicles was $721. Our review of the sales of these vehicles disclosed the following deficiencies:

- In April and May 2002, the City advertised in a local newspaper that it was accepting sealed bids for these vehicles. However, contrary to Section 705.103(2)(b)2., Florida Statutes, the advertisement did not include the required statement that the vehicles were subject to any and all liens.
- Although requested, we were not provided bids or individual receipts evidencing the sales of these vehicles. Instead, we were provided one receipt for $721 that indicated this was the total amount received collectively from various individuals. Except for one of the vehicles, a 1990 Yamaha Wave

Runner for which we were provided a bill of sale for $150, we could not determine to whom the vehicles had been sold and the amounts for which they were sold.

- The amount shown per the receipt, which was dated June 5, 2002, was deposited the same day into an interest-bearing account within the required 30-day time period; however, the City did not provide evidence that it remitted the proceeds, exclusive of applicable costs and including interest, to the State School Fund at the end of one year in accordance with Section 705.103(3), Florida Statutes.

Subsequently, the City Administrator, in August 2003, advised us that the $721 was payment for two of the five vehicles, and that these vehicles were titled in the City's name before the sale and, therefore, were not subject to the State School Fund program. However, according to the Florida Department of Highway Safety and Motor Vehicles records, title to these two vehicles has never been issued in the City's name. Although the City Administrator did not address the disposition of the other three vehicles, which included a 1984 Buick, a 1990 Chevrolet, and the 1990 Yamaha Wave Runner, we determined through the Florida Department of Highway Safety and Motor Vehicles records that these three vehicles were titled in the City's name prior to disposition. However, while title has been transferred from the City's name for two of these vehicles, the 1990 Yamaha Wave Runner remains titled in the City's name despite evidence that it had been sold as indicated on a bill of sale. Failure to transfer title of this vehicle to the new owner could expose the City to possible liability should individuals using this vehicle suffer or cause injury or death.

Recommendation: The City should determine the amount due to the State School Fund and remit such amount as soon as possible. The City should ensure that future sales of abandoned property are conducted, and funds remitted, in accordance with Section 705.103, Florida Statutes, and properly documented of record. In addition, the City should take action to ensure the immediate transfer of the title of the Yamaha Wave Runner to the new owner.

City Response

The City will seek advice of counsel relating to the requirements of F.S. 705.103 and determine if any portion of the proceeds resulting from the sale of property is due to the State School Fund. It would appear that if any vehicles were transferred to the City that the provisions of F.S. 705.103 would have no application. The City will verify the ownership of the 1990 Wave Runner and take the appropriate actions thereafter.

Long-Term Debt

According to the City's 2001-2002 fiscal year audited financial statements, the City's long-term debt payable to outside parties totaled $9.25 million as of September 30, 2002, of which approximately $3.8 million was related to a loan from the City of Gulf Breeze, Florida, through a bond pool issued in 1995. Our audit included a review of this loan and City actions relating thereto.

Finding No. 13: Debt Management

In February 1997, the City Council adopted Ordinance No. 337, which provided for the financing of $4,606,200 of costs related to the "acquisition, construction, and erection of improvements to the wastewater collection system" through the issuance of $2,303,100 of revenue bonds through the Rural Economics Community Development (RECD) within the United States Department of Agriculture (USDA), and a $2,303,100 grant from the RECD (the City received approval from the RECD for the bond issue and grant in April 1996).

In February 1997, the City Council also adopted Ordinance No. 338, which authorized the City to obtain a $4,190,000 loan from the City of Gulf Breeze to finance costs related to the "refunding of certain outstanding debt obligations of the City and the acquisition and construction of capital improvements for the City's wastewater utility system." Ordinance No. 338 indicated that $131,000 of outstanding water revenue bonds were to be refunded, but did not specify the estimated cost of the project to be financed. According to an agreement between the City and Bay County, which provided for the City's participation in an advanced regional wastewater treatment facility located at Tyndall Air Force Base, the project consisted of the construction of a transmission line and pumping station from the point of intersection of the County's and City's collection systems to the wastewater treatment facility, and modifications to the facility and transmission line required to accommodate effluent received from the City. According to the agreement, the anticipated project costs totaled $3,578,184. In May 1997, the City closed on the $4,190,000 million Gulf Breeze loan, which carries a variable interest rate and has a term of 24 years with a balloon payment of $1,483,135 due on May 1, 2001.

The agreement between the City and Bay County referred to a State Revolving Fund (SRF) loan that the County received to finance costs of modifications to the regional wastewater treatment facility located at Tyndall Air Force Base, and provided that the City would receive benefit of $969,424 in SRF loan proceeds and potentially could benefit from additional SRF loans (see Finding No. 15).

Our review of the City's debt management decisions, as discussed above, disclosed that such decisions may have resulted in the City incurring unnecessary financing costs as follows:

- According to the City's records, the City's financing needs at the time it obtained the Gulf Breeze loan in May 1997 totaled $8,315,384, consisting of $4,606,200 for the project addressed by Ordinance No. 337 and $3,709,184 for the refunding ($131,000) and project costs ($3,578,184) addressed by Ordinance No. 338. Of the $8,315,384, $4,606,200 was to be provided for by the RECD bond issue and grant, and at least $969,424 was to be provided by SRF loans, leaving $2,739,576 to be financed from other sources. It was not apparent, of record, why the City borrowed $4,190,000 from the City of Gulf Breeze, $1,450,424 in excess of its financing needs.

- Sometime after the City closed on the $4.19 million loan from the City of Gulf Breeze, the City determined that it would not need to use as much of the Gulf Breeze loan proceeds for the purposes specified in Ordinance No. 338 and the loan agreement as it had originally anticipated (see additional discussion regarding the use of the loan proceeds in Finding No. 14). It was not apparent, of record, why the City, after it was determined that not all of the loan proceeds would be needed for originally intended purposes, did not promptly pay off a significant portion of the principal balance due on the Gulf Breeze loan or pay off outstanding debt, including water revenue bonds issued in 1979, 1980, 1984, and 1995 with interest rates ranging from 4.5 to 10.5 percent. Through March 31, 2003, the City has incurred over $1 million in interest and fees related to the Gulf Breeze loan and a related loan of $57,822 obtained for closing costs, while a significant portion of the loan proceeds was not used for several years (over $3,000,000 remained unused for the period May 1997 through September 1999), including approximately $700,000 that remained unused as of March 31, 2003. Although the City invested the idle moneys, the investment rates of return were less than the cost of the borrowing. Investment earnings on the proceeds totaled approximately $665,000 from May 1997 through March 2003, of which $594,600 was applied to debt service payments on the loan. The principal balance on the water revenue bonds totaled $1,463,980 at the time the Gulf Breeze loan was obtained, and totaled $1,321,980 at September 30, 2002. The rates paid on the Gulf Breeze loan ranged from a high of 5.525 percent (as of September 30, 2000)

to a low of 2.925 percent (as of September 30, 2002), and have been lower than the rates of the water revenue bonds since the 2000-2001 fiscal year.

The Government Finance Officers Association (GFOA) recommends that governmental issuers planning to issue variable rate debt carefully evaluate their objectives and consider how this debt will be managed over the long term. According to the GFOA, some rating agencies, as a general rule, recommend that variable rate debt not exceed 10 to 20 percent of total bonds outstanding. The variable rate Gulf Breeze loan and closing costs loan comprised 42 percent of the City's total long-term debt at September 30, 2002. Although the interest rate on the loans is currently favorable to the City, interest rates on the loans are not capped and, according to the amortization schedule in the loan documents, the monthly principal payments on the Gulf Breeze loan increases each month. As such, future increases in debt service payments could put a strain on City resources should interest rates rise significantly.

Recommendation: The City should perform an analysis to determine whether it would be economically beneficial for it to pay down the Gulf Breeze loan or pay off more expensive debt (provided a favorable opinion of bond counsel is obtained – see Finding No. 14). In doing so, the City should consider the propriety of maintaining such a high level of variable rate debt, evaluate the impact on debt service requirements using different interest rate assumptions, and develop contingency plans for a rising interest rate environment. While interest rates are low, the City should consider obtaining a low fixed rate loan to pay off the Gulf Breeze loan and other outstanding debt.

City Response

The City is in agreement with the findings related to debt management. The City is in the process of analyzing its existing debt structure specifically, the Gulf Breeze loan, considering current and future anticipated interest rates with the help of its accounting firm.

Finding No. 14: Use of Loan Proceeds

Ordinance No. 338 specifies that the purpose of the Gulf Breeze loan is to fund the "refunding of certain outstanding debt obligations of the City and acquisition and construction of capital improvements for the City's wastewater utility system." The debt obligations to be refunded were the Water Revenue Bonds, Series 1982. Pursuant to Article II, Section 2.01(h)(1) of the loan agreement, the loan proceeds were to be used to finance or refinance capital improvements to the City's wastewater utility system as described in Exhibit A to the loan agreement. However, the loan agreement also provided that the loan proceeds could be used to finance or refinance projects other than those specified in the loan agreement if the City obtained a favorable opinion from bond counsel.

Based on documentation provided by the City, we determined that the Gulf Breeze loan proceeds were used for the following purposes not authorized by City Ordinance No. 338 and the loan agreement:

Date Paid	Use of Proceeds	Amount	Council Action	Date of Council Action	Approved by Bond Counsel?
August 1999 through April 2001	Other debt service payments or sinking fund payments	203,865	None	Not Applicable	No
April 1999 through January 2001	Improve water utility system	719,233	Resolution 2000-7	6/13/2000	No
May 2000	Purchase of land not related to wastewater system	602,425	Resolution 2000-7	6/13/2000	No
Total Expended		**$1,525,523**			

As noted above, Council action was not always taken or enacted prior to disbursement of the funds, nor did the City, of record, obtain bond counsel approval, pursuant to Article II, Section 2.01(h)(1) of the loan agreement, to use the loan proceeds for purposes other than those specified in the loan agreement. In addition, Resolution No. 2000-7 conflicts with City Ordinance No. 338 by authorizing the use of proceeds for improvement of the water utility system and the purchase of land unrelated to the wastewater utility system project. Pursuant to Section 166.041, Florida Statutes, ordinances represent local law while resolutions are used for administrative actions. When action is taken by ordinance, it can only be changed through an amendment to the ordinance or enactment of a subsequent ordinance.

Recommendation: The City Council should obtain approval from bond counsel for those projects financed with the loan proceeds that were not specifically authorized in the loan agreement and, for those projects not approved, restore the funds to the loan proceeds bank account to be used for authorized purposes. In addition, the City Council should approve by ordinance all uses of the loan proceeds that are for purposes other than that authorized by Ordinance No. 338 and the loan agreement.

City Response

The City is in agreement with the findings related to the use of Gulf Breeze loan proceeds. These expenditures were authorized by the prior administration. The current administration believes the City's auditors at the time should have ensured bond council approval was obtained prior to the commencement of the transactions. The City is now in the process of obtaining approval from bond council after the fact for the projects not previously approved.

Finding No. 15: State Revolving Fund Loans

As discussed in Finding No. 13, the City entered into an agreement with Bay County that provided for the City's participation in an advanced regional wastewater treatment facility (facility) located at Tyndall Air Force Base. Pursuant to Section 18 of the agreement, which was executed in May 1997, the City received $969,424 of the proceeds of a State Revolving Fund (SRF) loan that the County obtained from the Florida Department of Environmental Protection to finance costs of modifications to the facility, and potentially could benefit from additional SRF loans obtained by Bay County. The City was obligated to pay debt related to the proceeds from any SRF loans obtained by the County for the benefit of the City. This agreement further provided that, "The

debt service would be structured upon such terms and conditions as to the frequency and amount of repayment, as shall be acceptable to the City and County."

During the audit period, the City made monthly payments to the County to cover debt service payments related to SRF loans obtained by the County and allocated to the City. According to information provided by the Bay County Clerk of the Court's Office, the debt service payments were to be made over a 20-year period from 1999 to 2019 and, as of September 30, 2002, the City was scheduled to pay the County $2,626,098 to cover remaining debt service payments. Although requested, we were not provided with documentation evidencing that the City and County had agreed on the amount of debt service payments for which the City was obligated to the County.

Our review of the City's audited financial statements for the fiscal years ended September 30, 1999, 2000, 2001, and 2002, disclosed that this liability was not reported on the City's financial statements or otherwise disclosed in the notes to the financial statements. In accordance with generally accepted accounting principles, long-term liabilities directly related to and expected to be paid from proprietary funds should be included in the accounts of such funds, and debt service requirements to maturity should be disclosed in the notes to the financial statements.

Recommendation: The City should take appropriate measures to verify the accuracy of the amount of SFR loan debt service payments for which the City is obligated, as indicated by the information provided by the County, and should document of record its concurrence as to the amount of such obligation. The City should also ensure that its financial statements properly report and disclose, in accordance with generally accepted accounting principles, the City's liability for SRF loan debt service payments pursuant to its May 1997 agreement with Bay County.

City Response

The City is in agreement with the findings related to the SRF loan contract of May 1997 as it relates to disclosing the terms of the Military Point Advanced Wastewater Treatment Facility contract. The MPAWWTF contract, paragraph 18, indicates that this portion of the SRF loan will be used for the construction of the portion of the facility that will serve the City of Mexico Beach. The payments to Bay County indicate a component of the expense that is being used to pay down this debt. However, the City did not receive any of the $969,424 proceeds from the SRF loans, we have no ownership interest in the infrastructure that these proceeds financed, and there is not debt instrument related to these proceeds signed by the City of Mexico Beach. It is our understanding and we have confirmed with the County's attorney that we are not directly liable, nor contingently liable for this debt. In addition, Bay County has not recorded a receivable related to this portion of the debt service from Mexico Beach. We agree that it would benefit the users of the financial statements to adequately disclose the terms of this contract so that it is clearly understood. We are currently in the process of seeking a legal determination as to the necessity of amending paragraph 18 of the contract to more clearly indicate that the City is not liable for these SRF proceeds.

Follow-up to City Response

The Mayor, in response to this finding, indicated that the City had confirmed with Bay County's attorney that the City was not liable for SRF loans that the County had obtained for the benefit of the City, including the $969,424 referred to in Section 18 of the May 1997 agreement between the City and the County. However, the Mayor did not provide a written opinion from the County's legal counsel supporting this assertion. Nor did the Mayor provide us with evidence that the May 1997 agreement had been amended to eliminate the City's obligation to pay debt service on SRF loans obtained by the County for the benefit of the City. Further, we are not aware of any legal basis for the City to make payments to the County related to debt service on SRF loans obtained by the County other than Section 18 of the May 1997 agreement, nor did the Mayor provide us with any other legal authority for such payments. Accordingly, if as indicated in the Mayor's response, a legal determination results in Section 18 of the agreement being amended to indicate that the City is not liable for debt service related to such

loans, the City should cease making payments to the County related to debt service payments on County SRF loans and should inquire with the County about being refunded for any such payments previously made.

Restricted Resources

Finding No. 16: Accountability for Restricted Funds

Pursuant to Section 218.33(2), Florida Statutes, local governmental entities must follow uniform accounting practices and procedures promulgated by the Florida Department of Financial Services (FDFS). The FDFS has developed a *Uniform Accounting System Manual (Manual)*, which establishes financial accounting and reporting requirements for all local governmental entities. Chapter 1 of the *Manual* requires that local governmental entities use the classification of funds as prescribed in the *Manual* and classifies a special revenue fund as the fund to use "To account for the proceeds of specific revenue sources (other than expendable trusts or for major capital projects) that are legally restricted to expenditure for specified purposes." Accordingly, to maintain separate accountability for restricted revenue sources, the City should establish a special revenue fund for each type of restricted revenue source in accordance with the *Manual*.

As reported on the City's audited financial statements, the City received donations totaling $58,222 during the 2001-2002 fiscal year. Although these donations were legally restricted to expenditure for specified purposes, the City did not use a special revenue fund to separately account for the revenues. While the City generally maintained separate accountability for the revenues from donations through the use of general ledger codes, separate expenditure general ledger codes have not been established. The lack of expenditure general ledger codes for donations received limits the City's ability to control these restricted moneys and document in its public records that such moneys were used for authorized purposes. For example, the City deposited a $500 donation in April 2002 for the purchase of bullet-proof vests for the Police Department. However, as of the time of our review in May 2003, the City had not, of record, utilized the donated funds for the specified purpose. Absent the establishment of special revenue funds or expenditure general ledger codes to separately account for the donation, we could not determine for what purposes the moneys had been used.

Recommendation: The City should establish accountability for restricted revenues through the use of separate special revenue funds in accordance with the FDFS *Manual*. In addition, the City should review balances of donated moneys on hand and recent transactions to ensure that the restricted moneys have been used for authorized purposes.

City Response

The City is not in agreement with the findings related to accountability for restricted resources. While we agree that Florida's Uniform Accounting Manual and NCGA-1 state that proceeds of specific revenue sources that are legally restricted to expenditures for the specific purpose should be accounted for in a special revenue fund, NCGA-1 makes the point that it is possible to account for restricted resources directly in the general fund if these restricted resources are used to support expenditures that are usually made with the general fund. Of the $58,222 reported by the City as donations, the majority of the monies, which consisted of Mexico Beach CDC contract payments for beach maintenance, canal dredging, rent, and beach projects, should have been classified as other income. In fact, only the remaining (non-CDC revenue) of $500 was restricted private donations. Since these donations are used to support expenditures usually made from the general fund, we believe that the donations are appropriately accounted for in the general fund. We have at this point set up separate general ledger account numbers to properly account for, and track any restricted funds that are accounted for in the general fund.

Follow-up to City Response

The Mayor, in response to this finding, indicated that the City has established general ledger accounts to track restricted resources, including donations, in the general fund, and that this is permissible by National Council on Governmental Accounting (NCGA) statement No.1. We concur with this and acknowledge that restricted resources can be adequately accounted for through the use of separate general ledger revenue and expenditure accounts. However, local governmental entities in Florida, pursuant to the FDFS Manual, are required to use special revenue funds to account for restricted revenue sources.

Finding No. 17: Grant Reimbursements

The City routinely receives grants requiring the City to incur allowable expenditures prior to receiving grant moneys. While our testing revealed that the City had requested reimbursement for expenditures incurred under reimbursement grants within the time limits established by the grantor agencies, we found that the City did not request reimbursement for an expenditure totaling $150,000 to purchase land until approximately one year after the grant had been awarded. The expenditure occurred in May 2000 and the grant was awarded in June 2000; however, the initial grant request for reimbursement was dated June 2001. On June 26, 2001, the grantor agency requested additional supporting documentation in accordance with the original grant. The requested documentation was submitted to the grantor agency by December 2001 and the City received reimbursement in January 2002.

Recommendation: To efficiently manage cash flow, the City should monitor grant activity, ensure that all grant requirements are met timely, and ensure that grant moneys are requested promptly after the City becomes eligible to receive these moneys.

City Response

The City will adopt a new SOP related to the timing of requesting grant reimbursements so that they are requested as soon as reasonably possible following completion of the grant projects. The land acquisition grant for $150,000, issued in June of 2000, was received by a prior administration. In June 2001, it was discovered that the grant had not been completed for reimbursement. The reimbursement request was incomplete for various reasons and substantial new items, including title examinations, surveys and closing documents, were required for completion. The new administration completed the grant close-out. The necessary documents were obtained and submitted to the grant agency as soon as possible. The City met all requirements of the grant agency and the reimbursement was made soon thereafter.

Cash Controls and Administration

Collections of various taxes, fees, and charges (see discussion under the subheading ***Revenues and Other Receipts***) are generally received at City Hall. City management is responsible for establishing adequate controls that provide reasonable assurance that cash collections are safeguarded against loss from unauthorized use or disposition. To accomplish this, management should establish controls that include appropriate documentation procedures, separation of duties among employees, and independent internal verification procedures. Documentation procedures should include the preparation of records evidencing collection, such as the use of a receipt log (listing) or the use of prenumbered receipts, immediately upon receipt of the collections.

Finding No. 18: Dockage Fees

The City owns property named Canal Park (Park) along part of the canal that enters the Gulf of Mexico. Within the Park, the City rents approximately 43 boat slips on a daily, weekly, monthly, or annual basis. Dockage fees charged are based on boat length for daily rentals and, for all renters, the extent to which electricity is required by the renter (i.e., no electricity, light electricity, or heavy electricity). Dockage fees reported for the 2001-2002 fiscal year totaled approximately $22,800. The responsibility for the operations of the dock rentals rests with the City Administrator, who also functions as the City's Harbormaster. However, the duties for operating the dock rentals have been delegated to an Assistant Harbormaster. The Assistant Harbormaster was not an employee of the City and was paid a percentage of the boat slip rental fees collected based on a verbal agreement between the City and the Assistant Harbormaster.

During the audit period, the Assistant Harbormaster was responsible for monitoring the Park for all boats docked at City slips. He assigned the slips to boat owners and collected all dockage fees. Boat owners wishing to rent slip space were not required to sign a contract or other rental agreement, and slips rented were tracked by the Assistant Harbormaster using a manually prepared chart of all slips. Weekly, the Assistant Harbormaster submitted the fees collected to the City Clerk who, in turn, prepared a receipt for each fee submitted. On a monthly basis, the City Clerk wrote a check to the Assistant Harbormaster for 25 percent of the fees collected for the month. There was no independent verification by the City regarding boats docked at the Park or revenues collected by the Assistant Harbormaster.

Absent rental agreements that show the time period and dates of rentals and independent verification by City personnel, the City cannot be assured that all dockage fees are collected and that all fees collected are remitted to the City. In response to our inquiry in June 2003, the City Administrator furnished a copy of a new contract to be used by the Assistant Harbormaster in renting slip spaces and a written contract with the Assistant Harbormaster (effective May 1, 2003). Our review of these documents disclosed the following:

- The new slip rental contract is not a prenumbered form, and does not provide spaces for boat length or for the degree of electricity required by the renter. This form could serve as an auditable record for the City to verify slip spaces rented; however, because the form is not prenumbered and does not provide complete information, the City has no assurance that all forms are accounted for or that the proper amounts of fees are collected and remitted for all spaces rented.
- The contract with the Assistant Harbormaster specifies that he is responsible for all duties of the City's Harbormaster. Although the contract specifies that the Assistant Harbormaster remit all fees collected to the City, it does not require the submittal of the rental contracts to the City. Without a review of the contracts, the City cannot determine whether it has received all fees collected.

We reviewed dockage fees collected by the Assistant Harbormaster in April or May 2003, as shown on records maintained by the Assistance Harbormaster, to determine if such fees were subsequently remitted to the City. Fees generally appear to have been remitted; however, there was one receipt for $70 collected by the former Assistant Harbormaster for which the City could not provide documentation that it received the moneys from the Assistant Harbormaster.

Recommendation: The City should enhance its procedures to provide for prenumbered rental contracts that include sufficient information to provide for a post-audit for use in renting slip space and

should require the Assistant Harbormaster to submit the rental contracts to the City. The City should also assure that all contracts are accounted for, and moneys are received for all contracts written. Additionally, the City's Harbormaster or other delegate should make periodic site visits to independently verify that rental contracts have been prepared and dockage fees collected for all boats docked at the time of the site visit.

City Response

The City will revise its contract with the Assistant Harbormaster to require that all rental contracts be submitted to the City. The City will revise the slip rental contract for vessels to be pre-numbered forms and include specific vessel length and desired slip options. The City Harbormaster already makes periodic inspections of the canal slips and rental contracts and this will continue as recommended.

Finding No. 19: Fence, Sign, and Driveway Permits

Prenumbered forms provide a means for documenting amounts collected, fixing responsibility for such amounts, and determining whether amounts collected are subsequently recorded in the accounting records and deposited. Prenumbered forms were utilized for the issuance of occupational licenses and building permits; however, they were not utilized in issuing fence, sign, and driveway permits, for which a $10 fee is assessed. Currently, after approval of the permits, payments are required to be made to an individual other than the individual responsible for approving the permits; however, during most of the audit period, blank application/permit forms were maintained by three different individuals, one of which was authorized to approve them. In the absence of prenumbered forms, and an accounting for such forms by an individual that does not approve permits or have access to collections, the City cannot obtain reasonable assurance that fence, sign, and driveway permit fees have been properly assessed, collected, and deposited.

Recommendation: The City should use prenumbered documents for issuing approved fence, sign, and driveway permits so that accountability for issued permits may be established and reconciliations performed of permits issued to amounts collected, recorded, and deposited. In addition, the City should ensure that an accounting for prenumbered permit forms is performed by individuals not responsible for approving them and that do not have access to fees collected.

City Response

The City now uses pre-numbered forms for issuance of fence, sign, and driveway permits and separates, to the extent possible, the persons responsible for collection of such fees and the approval of the permits. See also Response No. 2 relating to Separation of Duties. Accountability and reconciliation of these permits will be established on a scheduled basis.

Revenues and Other Receipts

The majority of City revenues are from water, sewer, and sanitation charges; ad valorem taxes; utility service and local option taxes; Federal and State grants; and State revenue-sharing. The City also receives revenue from other sources such as building permit fees, occupational license fees, dockage fees, and various other miscellaneous sources. According to the City's audited financial statements, the City reported approximately $3.5 million in revenue from all sources for the fiscal year ended September 30, 2002.

Finding No. 20: Water, Sewer, and Sanitation Late Fees

The City recorded user fee revenues totaling approximately $2.4 million for water, sewer, and sanitation services during the audit period. Customers receiving these services were billed monthly for services rendered and amounts due for water, sewer, and sanitation services were included on one billing per customer.

Pursuant to Ordinance No. 412, a late charge of 10 percent of the unpaid bill for water and sewer services is charged for payments received after the 20th of the month. Pursuant to Ordinance No. 370, the penalty for failure to pay sanitation fees is cessation of sanitation service; however, Ordinance No. 370 does not include a provision for late payment charges for sanitation services. Our review of utility billings disclosed the following deficiencies:

- Late charges were assessed for only 14 of the 18 months during the audit period. For those months in which late charges were assessed, the City improperly assessed the 10 percent penalty on the entire balance due (i.e., including sanitation fees). Sanitation charges included on monthly billings during the audit period totaled $422,913, or approximately 18 percent of the total user fees charged for water, sewer, and sanitation services combined. Based on this percentage, the estimated amount of unauthorized late fees charged related to sanitation services would be $4,322 (18 percent of the $24,013 of total late charges recorded during the audit period).

  Of the $24,013 of total late charges recorded during the audit period, an estimated $19,691 ($24,013 less $4,322 related to sanitation services) was attributable to water and sewer services. Based on the average monthly late charges assessed during the 14 months ($1,407), the City potentially failed to assess and collect $5,628 in late charges for the other 4 months. Upon inquiry, the City Administrator indicated that late charges were not assessed for these months because the utility billings were not mailed by the 5th of the month in which the payments were due. He also indicated that if the City does not mail the bills by the 5th (because of holidays, computer delays, or weather delays), the City could not, in all fairness, shorten the standard 15-day billing cycle to the detriment of the public. Notwithstanding the City Administrator's explanation, we were not provided with documentation evidencing the dates that billings were actually mailed. Consequently, we could not determine for the 4 months whether payments were received with 15 days of the mailing of billings. Further, while not shortening the 15-day billing cycle appears to be a reasonable practice, failure to assess late fees for payments received after the 20th of the month is not consistent with Ordinance No. 412 and results in lost revenues to the City.

Although the City Council adopted, via Resolution No. 2003-5, Comprehensive Standard Operating Procedures that included the policy of not charging late fees when the City fails to mail utility billings by the 5th of the month, this policy conflicts with City Ordinance No. 412. Pursuant to Section 166.041, Florida Statutes, ordinances represent local law while resolutions are used for administrative actions. When action is taken by ordinance, it can only be changed through an amendment to the ordinance or enactment of a subsequent ordinance.

Recommendation: The City should calculate unauthorized late fees charged for sanitation services and refund any such moneys collected. The City should also amend Ordinance Nos. 370 and 412 to provide for late charges on delinquent sanitation services, and amend its Comprehensive Standard Operating Procedures to coincide with applicable ordinances.

City Response

The City is in agreement with the findings related to the water, sewer and sanitation late fees. It is our understanding that the omission of the provision for late fees to be charged on sanitation charges as expressed in ordinance 370 by the prior administration was an unintentional oversight. While we are in agreement with the finding, we believe that the administrative burden and costs associated with trying to determine which accounts were overcharged by what amount would be unduly burdensome and costly. We are currently complying with the ordinances as approved. As a remedy for this oversight the City will consider advertising in the local newspaper that is used for procurement purposes, that the City has incorrectly charged late fees on sanitation charges, or other appropriate remedy. Anyone who comes to the City with proper documentation supporting his or her overcharges will be reimbursed accordingly.

Personnel and Payroll Administration

City expenditures for salaries and other wages for the 2001-2002 fiscal year totaled approximately $800,000. Ordinance No. 431, adopted by the City Council on November 12, 2002, addresses personnel policies of the City. Prior to that, the City's personnel policies in effect were those adopted by the City Council on December 15, 1986.

Finding No. 21: Hiring Practices

Effective control over the hiring of new employees includes verification of employment history or educational experience prior to offering employment, and the maintenance of personnel files that include completed applications, letters of reference, college transcripts (if applicable), and other appropriate documentation evidencing authorized personnel actions. Our review of personnel records of 12 employees hired between June 2001 and March 2003 disclosed the following deficiencies:

- ***Applications Not Retained or Incomplete.*** An application form was not available for 2 of the 12 employees tested, the City Administrator and the City Clerk, although a résumé was on file for the City Clerk. For 3 others, the application was incomplete in that 1 employee did not complete the Financial Status section of the application and 2 employees failed to complete the References and Acquaintances section. According to the policies in effect during the audit period, each applicant was required to answer all questions and furnish all information required on the application form.

- ***Verification of Application Information.*** We were provided with position descriptions, which included minimum qualifications, for all employees in our test. Although City staff asserted that these were in effect for the audit period, the City Council did not officially adopt these position descriptions until February 11, 2003, via Resolution No. 2003-1. Additional position descriptions were officially adopted by the City Council on April 8, 2003, via Resolution No. 2003-8. Using the position descriptions provided, we determined, for several of the employees tested, that there was no documentation available evidencing that the employees met the minimum requirements of the position for which they were hired as follows:

    - Four of the employees were hired as police officers or reserve police officers, who are required to have clean driving records. Although City staff indicated that the employees' driving records were checked online, there was no documentation in the personnel files of these employees evidencing the City's review of the employees' driving records and the results of the reviews.

- For 4 employees hired, prior experience was required for the position in which they were hired; however, there was no evidence in the personnel files to support that these employees possessed the required experience.

- Three of the employees hired were required to possess a commercial driver license; however, in 2 of the employees' files, the copies of the driver licenses indicate that the employees did not possess a commercial license. For the third employee, no copy of the employee's driver license was included in the file. In response to our inquiries, the City Administrator indicated that the City customarily allows employees six months, the probationary period, to obtain the required licenses; however, there is nothing in the City's policies or position descriptions that provide for this grace period.

➢ ***Verification of References.*** For the 8 employees tested that were not police officers or reserve police officers, there was no documentation in the employees' files that the City contacted previous employers or references listed in the employment application.

Recommendation: To provide for efficient personnel administration, the City should ensure that personnel files contain all required documentation, including complete applications, and evidence that City staff or City Council verified application data and references. Additionally, the City Council should revise position descriptions of City employees, as necessary, to include applicable minimum qualifications.

City Response

By Resolutions 2003-01, -05, and 08, the City has adopted new written policies controlling the hiring process, including SOPs ADM-105 and SAO-103. SAO-103 requires applications to be completed, references/work experience be checked in accordance with the nature of the position and the type of assets to be handled by the applicant, and verified for the record, and a copy of all relevant licenses and certificates be kept on file.

With regard to the specific findings, neither the City Clerk nor City Administrator was required to complete an application for employment. The police department verifies all applicants on-line as part of the application process, and if an applicant fails to have a clean driving record, the application is rejected. References and work experience is verified and checked by the Department Head recommending hiring of the position and, typically, places a check or other mark on the application of the references/work experiences checked. In the future, the notes will be made more distinct and/or placed on a separate form for third-party reviewers who are not familiar with the process. The six-month probationary period for certain positions is reflected in the City's Personnel Policy and has been endorsed by the city council has the period for meeting special job description requirements, such as licensing. The City will consider formally adopting another resolution to explain this practice in detail.

Finding No. 22: Nepotism

Section 112.3135, Florida Statutes, provides restrictions on the employment of relatives. Although nepotism was not addressed in the policies in place prior to November 2002, those policies adopted pursuant to City Ordinance No. 431 state, in pertinent part, "To ensure the reality and appearance of fairness in the best interest of the City of Mexico Beach, immediate relatives as defined in FS 112.3135 will not be employed in any position where one relative would have the authority to supervise, appoint, remove, discipline or evaluate the performance of the other."

In our review of the City's personnel and related payroll records, we noted a situation in which one employee, the Director of Public Works, supervised his brother-in-law. The supervisor performed the employee's evaluations

conducted in August 2001 and September 2002 and, during most of the audit period, signed the employee's time cards.

In response to our inquiries, the City Administrator indicated that he now signs the employee's time cards and performs the employee's evaluations. In addition, the City Administrator indicated that, ". . . the fact that (the supervisor's name) appears on a year-end evaluation is only because he was present when I performed the employee's annual review." However, the supervisor's name was in the "Evaluation performed by" space on the employee's evaluation. In addition, it is not apparent how the City Administrator would be in a position to determine the accuracy of an employee's time card or evaluate an employee that he does not directly supervise.

Recommendation: To comply with City Ordinance No. 431, the City should discontinue allowing an employee to supervise and evaluate the employee's relative.

City Response

The City has revised its Personnel Policies pursuant to Ordinance 431 to eliminate the term "supervise". The employee in question was hired in October 2000 with the full approval of the prior council and before the adoption of the new personnel policies. The City Administrator will control, evaluate and review the employee in question. The Personnel Policies are in full compliance with F.S. 112.3135 and, as previously explained, the City Administrator, not the Department Head, evaluated the employee in question during his annual review.

Finding No. 23: Council Members' Compensation

To determine how to treat compensation to an individual, a determination must be made as to whether the individual is an employee or an independent contractor. This distinction is important because there are certain laws that apply when an individual serves in the role of an employee rather than an independent contractor. For example, compensation to independent contractors is not subject to withholding for employment taxes, whereas compensation to employees is subject to withholding for employment taxes, such as Federal Insurance Contributions Act (FICA) and Medicare taxes.

Pursuant to Section 3121(d)(2) of the Internal Revenue Code, employee status, for purposes of FICA employment taxes, must be determined under the usual common law rules applicable in determining the employer-employee relationship. In Revenue Rule 87-41, 1987-1 C.B. 296, the Internal Revenue Service identified factors as indicating whether sufficient control is present to establish an employer-employee relationship. Revenue Ruling 61-21, 1961-1 C.B. 431, stated that "state officials, whether appointed or elected, are considered to be employees of their respective state or instrumentalities and their services are considered as being in the employ thereof." The Internal Revenue Service, in Chapter 3, Federal-State Reference Guide (IRS Publication 963), has indicated that because an elected official is responsible to the public and usually can be removed by the public or a superior, the elected official does not have the freedom from supervision that is characteristic of an independent contractor. As such, the Mayor and other Council members should be considered employees for the required withholding and payment of FICA employment taxes.

During the audit period, the Mayor was paid $400 per month and other Council members were paid $200 per month as compensation for carrying out their official duties. The compensation was treated as though the elected officials were independent contractors and no employment taxes were withheld or paid on the compensation paid to the Mayor or other Council members. For the 2002 calendar year, Forms 1099-MISC were issued to these individuals indicating the total amounts paid for those years. Pursuant to Section 3509 of the Internal Revenue

Code, if any employer fails to deduct and withhold FICA taxes with respect to any employee by reason of treating such employee as not being an employee, the employer is liable for the taxes. As a result of classifying Council members as independent contractors, the City may be liable for unpaid employment taxes.

Recommendation: The City should contact the Internal Revenue Service to determine what corrective action, if any, should be taken regarding unpaid employment taxes.

City Response

The City is not in agreement with the finding related to the Council Members' compensation. While we agree with the federal state reference guide's determination of council member's status, it is our contention that the $400 per month that the Mayor receives and the $200 per month that the other Council Members receive is paid for the purpose of offsetting expenses incurred by the Council Member in the performance of his or her duties and not compensation in the form of salary. Rather than an accountable plan, the Council Members are paid a fixed amount reported to them annually on a form 1099 that they include on their Schedule C. After deducting expenses, the amount that remains, if any, is subject to income and self-employment taxes. This policy is consistent with municipalities throughout Bay County. All Commissioners and Council Members paid less that $600 per month are receiving 1099's. All that receive in excess of $8,400 per year are receiving W-2's. We believe this is consistent with the intent of the payments and the Internal Revenue Service's twenty factors indicating an employer-employee relationship. We will correct references referring to these payments as expense reimbursements and remove the references to them as compensation.

Follow-up to City Response

The Mayor, in response to this finding, indicated that the City does not agree that the payments to Council members in question represent compensation for services rendered and has asserted that such payments are made pursuant to a nonaccountable plan to offset expenses incurred by Council members in the performance of their duties. However, payments made pursuant to a nonaccountable plan are subject to payroll taxes. See Regs. §1.62 – 2(c)(5), 31.3121(a)-2 and 31.3401(a) – 2(b)(1). Appropriate withholding was required for these payments regardless of whether they were intended to constitute compensation or reimbursement for expenses. We continue to recommend that the City withhold appropriate amounts from these payments, and if the City intends to revise the nature or amount of payments made to the Mayor and other Council members it should be done by appropriate ordinance. If the City still has questions concerning the proper treatment of Council members' compensation, the City should consult with the Internal Revenue Service.

Finding No. 24: Fringe Benefits

Pursuant to United States Treasury Regulations, Section 1.61-21(a)(3), a fringe benefit provided to any person in connection with the performance of services by that person is treated as compensation for such services. Fringe benefits are taxable unless specifically excluded by a provision of the Internal Revenue Code. Examples of excluded benefits are educational assistance, group-term life insurance coverage, and working condition fringes.

In our review of payroll records, we found that the following fringe benefits were not included in employees' Forms W-2, Wage and Tax Statements:

- ***Health Club Memberships.*** The City provided employees with membership at a health club. The membership fee per employee was $10.50 per month, and the City paid a total of $6,426 to the health club during the audit period for employee memberships. Although exclusions are provided for the value of an on-premises athletic facility operated by the employer, there is no exclusion for membership fees paid by an employer to an offsite facility.

- ***Bar Dues and Late Fees.*** The City paid bar dues of $175 and late filing fees (for late continuing legal education reporting) of $50 to the State Bar of Georgia on behalf of the City Administrator in June and March 2002, respectively. Although working condition fringe benefits are excludable from gross income, the exclusion applies to property and services provided so that an employee can perform his or her job, and they are excludable to the extent that the employee could deduct the costs as a business expense. Since the duties of the City Administrator do not require membership in the Georgia Bar, neither the costs of bar dues nor late fees are properly excludable from gross income.

- ***Lodging Expenses.*** Pursuant to the City Administrator's contract with the City, he was paid $400 per month for six months for temporary lodging expenses (July 2001 through December 2001). The exclusion from gross income of temporary lodging expenses while occupying temporary quarters in the general location of the new principal place of work is limited to 30 consecutive days. Therefore, of the $2,400 paid to the City Administrator for temporary lodging expenses, $2,000 should have been included as gross income in the City Administrator's Form W-2 for 2002.

- ***Moving Expenses.*** Payments for moving expenses are generally excludable from gross income; however, the exclusion applies only to expenses the employee could deduct if he or she paid or incurred them without reimbursement. Deductible moving expenses include only the reasonable expenses of moving household goods and personal effects from the former home to the new home, and traveling (including lodging) from the former home to the new home.

  In December 2001, the City paid $2,840 for the transport of the City Administrator's personal effects to the Mexico Beach area. This amount was properly excluded from the City Administrator's Form W-2 for 2001. In April 2002, the City paid the City Administrator $660 for expenses incurred in January through March 2002 for additional moving and storage of his personal effects within the Mexico Beach area. Expenses of storing and insuring household goods and personal effects constitute deductible in-transit expenses if incurred within 30 consecutive days after the day such goods and effects are moved from the taxpayer's former residence. Additionally, the cost of moving household goods and personal effects to the taxpayer's new residence from a place other than his former residence are allowable only to the extent that such expenses do not exceed the amount that would be allowable had they been moved from the taxpayer's former residence. Based on the documentation attached to the voucher for the $660 payment, only $135 appears to be deductible by the employee and, therefore, the remaining $525 should have been included as gross income in the City Administrator's Form W-2 for 2002.

As discussed in Finding No. 31, we also noted that employees assigned City vehicles on a 24-hour basis were not required to maintain vehicle usage logs needed to determine the value of the personal use of such vehicles, which represents gross income.

Recommendation: The City should annually determine what fringe benefits provided to employees should be included in employee Forms W-2. In addition, the City should determine what fringe benefits provided to employees were improperly excluded from gross income and contact the Internal Revenue Service to determine what corrective action, if any, should be taken regarding the unreported amounts.

City Response

The City will consult with its accounting firm to determine if any of the above-mentioned benefits are in fact non-excluded fringe benefits that should be included on employees W-2 Statements. The City will then make any appropriate adjustments as necessary.

With regard to all specified benefits set forth above, the City believes that such benefits are excludable under the Internal Revenue Code.

Follow-up to City Response

The Mayor, in response to this finding, indicated that the City believes that the fringe benefits cited in the finding are excludable under the Internal Revenue Code. However, we are not aware of, nor did the Mayor indicate in her response, what sections of the Internal Revenue Code specifically exclude the cited fringe benefits from being subjected to employment taxes. Given the City's disagreement with our interpretation of the Internal Revenue Code with respect to the cited fringe benefits, the City should seek an on point interpretation from the Internal Revenue Service.

Procurement of Goods and Services

The authority for City officials to expend moneys is set forth in various provisions of general or special law and in ordinances enacted by the City Council. Expenditures of public funds must, to qualify as authorized expenditures, be shown to be authorized by applicable law or ordinance; reasonable in the circumstances and necessary to the accomplishment of authorized purposes of the City; and in pursuit of a public, rather than a private, purpose. These limitations require City officials seeking to expend public funds to identify the authority relied upon for the contemplated expenditures and to adequately describe how the expenditures will further an authorized public purpose (see Attorney General Opinion No. 068-12).

The documentation of any expenditure in sufficient detail to establish the authorized public purpose served should be present at the point of time when the voucher is presented for payment of funds. Unless such documentation is present, the request for payment should be denied. To provide documented assurances that expenditures of City funds are for authorized public purposes, City officials are responsible for establishing and maintaining internal controls, including the adoption of sound accounting practices, that will provide for the proper recording, processing, summarizing, and reporting of financial data.

Our findings concerning the adequacy of documentation to demonstrate public purpose are presented under appropriate subheadings below.

Finding No. 25: Inadequately Documented/Unauthorized Expenditures

Pursuant to Article VII, Section 10 of the State Constitution, the City may not become a joint owner with, or stockholder of, or give, lend, or use its taxing power or credit to aid any corporation, association, partnership, or person. According to Attorney General Opinion No. 96-90, the purpose of this provision is "to protect public funds and resources from being exploited in assisting or promoting private ventures when the public would be at most incidentally benefited."

Our tests disclosed expenditures totaling $8,529 for which the City's records did not clearly document that a public, rather than a private, purpose was primarily served, contrary to Article VII, Section 10 of the State Constitution. Of these expenditures, $1,878 was repaid to the City by employees. These expenditures were as follows:

- As noted in Finding No. 24, the City paid $6,426 to a health club during the audit period for employee memberships. There was no indication in the City records that payment of the memberships was being treated as compensation of these employees.

- As also noted in Finding No. 24, the City paid $175 in bar dues and $50 in late filing fees (for late continuing legal education reporting) to the State Bar of Georgia on behalf of the City Administrator. There was no indication in the City records that payment of the bar dues and late fees was treated as compensation of the City Administrator. Based on opinions issued by the Attorney General's Office, which has consistently opined that State funds may not be utilized to pay dues of The Florida Bar for State officers and employees, these expenditures do not appear to serve a public purpose. For example, as originally cited in Opinion No. 58-15, and again cited in Opinion No. 87-23, the Attorney General concluded, "It is my opinion that local bar associations and the Florida bar dues are private expenses, personal to the individual belonging to these organizations, and may not be considered an expense of a county judge . . ."

- The City obtained two computers for the Director of Public Safety to use at his home, one in 1997 for $1,297 and another in 2002 for $581. The Director repaid the City in full over a one-year period for the first computer and over a nine-month period for the second computer through payroll deduction. In response to our inquiry, the Director of Public Safety indicated that he was authorized to obtain these computers through the City because he conducted City business using the computers at his home. However, under these circumstances, the City has no assurances that the computers are used only for official purposes.

Recommendation: The City should clearly document in its public records that expenditures serve a public purpose, are reasonable, and necessarily benefit the City. In addition, the City should discontinue purchasing items for employees and allowing them to repay the City.

City Response

The City believes that the expenditures set forth above do serve a public purpose and meet all requirements of Florida law. The City will consult with its legal counsel and accounting firm to validate these expenditures of the past and for the future and seek to better document its "public purposes". The City has stopped any new purchases for employees that may be used at home in full or part. For example, the City no longer finances the purchase of weapons by new police officers to use on duty (but owned individually by the officer). The City now purchases the weapons, issues them to the officer(s), and the City retains ownership of the weapons.

Finding No. 26: Disbursement Processing

The City is responsible for establishing controls that provide assurance that the process of acquiring goods or services is effectively and consistently administered. We tested 60 disbursements made during the audit period and noted the following deficiencies:

- ***Purchase Requisitions and Purchase Orders***. Many of the disbursements we tested were for expenditures for which a purchase requisition was unnecessary (e.g., health insurance payments). However, a purchase requisition was not used for 5 of the 15 expenditures tested for which use of a purchase requisition was appropriate. Additionally, although the City used purchase orders in processing disbursements, purchase orders were issued after items had been ordered and received, and after invoices had been received. The use of purchase orders and purchase requisitions serve to document management's authorizations to acquire goods and services, document the specifications and prices of the goods and services ordered, provide a basis for controlling the use of appropriated resources through encumbrances, and authorize vendors to provide goods and services to the ordering agency. Failure to

use purchase orders prior to the ordering and receipt of items could have been a contributing factor in budget overexpenditures discussed in Finding No. 4 as budgetary availability may not have been considered prior to incurring the expenditure.

- ***Lack of Signatures and Dates for Receipt of Goods or Services.*** Signatures and dates evidencing that goods and services were received, inspected, and approved by an appropriate employee were not always documented. Of the 30 expenditures tested for which such signature and date should have been indicated, 8 (27 percent) were deficient. Signatures from appropriate personnel are necessary to ensure that the goods or services ordered have been received and are in good order. Dates that goods or services are received are necessary for a proper cut-off of accounts payable at year-end and may be needed to evidence compliance with the Florida Prompt Payment Act (Chapter 218, Part VII, Florida Statutes), which establishes procedures and time limits for processing and paying invoices submitted by vendors to local governments.

The absence of adequate supporting documentation, including approved purchase requisitions and purchase orders and evidence that goods or services have been received and invoices paid, increases the City's risk of paying for unsubstantiated or improper expenditures.

Recommendation: The City should ensure that written purchase requisitions and purchase orders are used to document the approval of purchases prior to incurring an obligation for payment. In addition, the City should ensure that supporting documentation for disbursements includes evidence that goods or services were received.

City Response

The City has adopted SOPs FA 101 and PUR 101 that provide detailed written guidelines for purchase requisitions, purchase orders, and receipt of goods. The City will ensure that these policies are timely followed and documented to the extent possible. Specifically, the City will seek to better time its purchase order requests and approvals as it relates to the ordering (and not receipt) of goods and services. However, in many cases the City Council has approved by vote a specific purchase before the purchase order has been completed or requested, which gives the mistaken appearance of unauthorized purchasing before the purchase order is approved. To avoid this confusion, the City will seek to reference on the purchase orders the approval date(s) when necessary.

Finding No. 27: Purchases of Goods and Services Exceeding $3,000

The City Council adopted Ordinance Nos. 177 and 355, which established a purchasing policy for the City. This purchasing policy requires competitive bidding for purchases of $3,000 or more. With Council approval, exceptions to the competitive bid requirement may be granted for purchases from single source, Federal or State agencies, or one-time auctions, where the best interest of the City will be served after unsuccessfully attempting competitive bidding. The purchasing policy provides that competitive bids normally will be solicited by advertisement in a local or area newspaper, or, if newspaper advertising is not feasible, by direct mailings, posted notices, or other means of advertisement, and requires City Council approval for the awarding of bids.

Our audit tests disclosed four purchases totaling $69,482, each exceeding $3,000, that were not competitively bid or appropriately approved by the City Council at a regular or special meeting as noted below:

- $28,000 for moving the City Hall building to its present location. Although the City Administrator indicated that the project was bid by "posting a notice to all interested parties," we were not provided documentation (e.g., a copy of the posted notice) evidencing this. In addition, the City Council minutes

of December 11, 2001, indicate Council authorization for staff to acquire and relocate the building at the lowest available cost; however, there was no evidence of City Council approval of the vendor selected to move the City Hall.

- $15,242 for lift station equipment. Although the City Administrator indicated that the "project was bid by posting," we were not provided documentation evidencing this. In addition, there was no evidence of City Council approval of the vendor selected to provide the lift station equipment.
- $14,215 for the purchase of a traffic trailer. The City Administrator indicated that three or more bids were obtained by telephone and the item was purchased from the lowest bidder. No documentation was provided pertaining to the telephone bids obtained or City Council approval of the vendor selected.
- $12,025 for the purchase of fire equipment. The City Administrator indicated that three or more bids were obtained by telephone and the item was purchased from the lowest bidder. No documentation was provided pertaining to the telephone bids obtained or City Council approval of the vendor selected.

Although Ordinance Nos. 177 and 355 require that bids be advertised in the newspaper when feasible, none of the bids for these purchases were solicited through the newspaper, and it was not apparent, of record, why newspaper advertisements were not feasible for these purchases. Some of these purchases appeared to be specialty items that may not be available through vendors located near or within the City limits, and considering the size and location of the City, as well as the available vendors in the area, advertisement by "posting" would not appear to be the best method to ensure that bids were obtained from all qualified vendors.

Recommendation: The City should ensure that purchases exceeding an aggregate total of $3,000 are competitively bid, including advertisement in a local newspaper when feasible, and that selection of vendors for such purchases is approved by the City Council in accordance with Ordinance Nos. 177 and 355. Evidence of such procurement efforts should be documented of record.

City Response

The City has adopted SOP PUR-101 that details the requirements for competitive bids and supplements the provisions in the City Code. The City's bids procedures require new and additional record-keeping activities. The City will seek to minimize any non-advertised bidding procurements as set forth in SOP PUR 101. As to the specific findings relating to the services for moving a building ($28,000) and the lift station equipment ($15,242) these bids were noticed and posted. With regard to the Department of Public Safety items, the Police Chief followed the terms of the relevant grants that funded those items (traffic trailer-FDOT and fire equipment). Both of these items were grant funded and the manner of purchase was approved by the relevant agency. Additionally, these public safety items are specialty items not sold in the general market.

Contractual Services

The City is responsible for establishing internal controls that provide assurance that the process of acquiring contractual services is effectively and consistently administered. As a matter of good business practice, procurement of services should be done using a competitive selection process to provide an effective means of equitably procuring the best quality services at the lowest possible cost. In addition, contractual arrangements for services should be evidenced by written agreements embodying all provisions and conditions of the procurement of such services. The use of a formal written contract protects the interests of the City, identifies the responsibilities of both parties, defines the services to be performed, and provides a basis for payment. Further, to ensure that contractors comply with applicable terms and conditions of the contract and that the contractor's

performance is effective in accomplishing the objectives established in the contract, effective monitoring procedures should be established.

Finding No. 28: Awarding of Contracts for Services

As discussed in Finding No. 27, the City did not always comply, of record, with the requirements prescribed by Ordinance Nos. 177 and 355 regarding the purchase of various goods or services. Our review of the City's procedures for procuring various types of contractual services, all involving expenditures exceeding $3,000, disclosed the following additional instances of noncompliance with applicable State laws, City ordinances, or good business practices:

Auditing and Accounting Services

Pursuant to Section 218.391(2), Florida Statutes, a municipality is required to establish an auditor selection committee and auditor selection procedures for employing a firm to perform the municipality's required annual audit. The City may elect to use its own selection procedures or the procedures outlined in Section 218.391(3), Florida Statutes. Contrary to Section 218.391(2), Florida Statutes, the City did not use an auditor selection committee or competitive auditor selection procedures prior to entering into a written agreement with the public accounting firm for the 2001-2002 fiscal year audit. The City has used the same audit firm for the last 20 years.

The City's written agreement with the public accounting firm stated that fees would be based on actual time spent at standard hourly rates, and indicated that the firm would be reimbursed for out-of-pocket costs. However, no hourly rates were specified. For the 2001-2002 fiscal year audit, the firm was paid $38,200. Our review disclosed that invoices supporting these payments did not indicate the hourly rate, the number of hours, or details of the out-of-pocket expenses for which the firm was seeking reimbursement.

The firm was also paid for accounting services, including $9,550 for assistance with corrections to general ledger account balances and $1,815 for assistance with recording of sewer fund activity, without benefit of a written agreement. In addition, invoices supporting these payments also did not contain the hourly rates, number of hours, or details of any out-of-pocket expenses included.

Legal Services

The City has used the same attorney for legal services for the past 20 years. Until January 2003, there was no written agreement between the City and the attorney, and a total of $11,248 was paid to the attorney during the audit period without benefit of a written agreement. In procuring these legal services, no competitive selection process was used by the City.

Engineering Services

Section 287.055, Florida Statutes, requires that the City publicly announce and enter into a formal competitive selection and negotiation process for engineering services on each occasion when construction costs are estimated to exceed $250,000 or when a planning or study activity fee is estimated to exceed $25,000, unless there exists a continuing contract and the construction costs do not exceed $500,000 and the planning or study activity fees do not exceed $25,000. During the 1998-99 fiscal year, the City began utilizing an engineering firm for a project, with estimated construction costs of approximately $2,000,000, related to construction of a water supply transmission line. The fees for engineering services for this project were estimated at approximately $290,000. The City, in selecting the engineering firm, did not, of record, utilize the competitive selection process required by

Section 287.055, Florida Statutes. As of March 2003, a total of $278,603 had been paid to the engineering firm for this project.

Recommendation: The City should comply with the provisions of Sections 218.391(2) and 287.055, Florida Statutes, when acquiring auditing and engineering services, respectively. Also, as a matter of good business practice and to comply with Ordinance Nos. 177 and 355, the City should obtain contractual services only after using a competitive selection process, and enter into written agreements with the contractors selected to document the nature of services to be performed and the amount of compensation to be provided. In addition, the City should obtain adequate invoices for auditing and accounting services.

City Response

In January 2003, the City advertised and awarded a continuing contract for engineering services pursuant to F.S. 287.055. In August of 2003, the City advertised and later awarded separate contracts for legal, accounting, and auditing services. The contracts specify that detailed billing and description for services are required with each invoice. The City had not previously advertised for any of these services, except engineering, in the last approximately twenty years or more. The City intends to re-advertise for such services every 4-5 years.

As to the engineering services provided by Baskerville-Donovan, Inc. ("BDI") for the Water Transmission Line project, the City could not locate any advertisement for such engineering services, which exceeded $278,000. The City, however, did maintain a continuing contract for engineering services with BDI at the time.

Travel Expenses

Section 112.061, Florida Statutes, governs per diem and travel expenses of public agencies, including municipalities, except that the provision of any special or local law, present or future, prevails over any conflicting provisions in this Section, but only to the extent of the conflict. Among the requirements of Section 112.061, Florida Statutes, are provisions establishing uniform rates (including the amounts of reimbursement that travelers may claim) and specific documentation requirements for the payment or reimbursement of travel expenses incurred by public officers, employees, and authorized persons in connection with official business.

Pursuant to Chapter 2003-125, Laws of Florida, a municipality that provides any per diem and travel expense policy pursuant to Section 166.021(10)(b), Florida Statutes, shall be deemed to be exempt from all provisions of Section 112.061, Florida Statutes. Any municipality that does not provide a per diem and travel expense policy remains subject to all provisions of Section 112.061, Florida Statutes. Although the Law was approved by the Governor on June 10, 2003, the section of the Law applicable to Section 166.021, Florida Statutes, applies retroactively to January 1, 2003.

On March 11, 2003, the City Council passed Resolution No. 2003-5 approving and adopting Comprehensive Standard Operating Procedures for use in operations of the City (prior to that, the City had no formal written travel policy). Section ADM 109 of the Comprehensive Standard Operating Procedures, entitled Travel Expenses, indicates that expenses are to be within established State guidelines, for established public purposes, and will be reimbursed only with proper documentation in accordance with Section 112.061, Florida Statutes, as adopted by the City Council or other reasonable expense ordinances as approved by the Council. During our audit period, there were no City ordinances in effect relating to travel expenses and, as such, the provisions of Section 112.061, Florida Statutes, applied to the City.

Finding No. 29: Travel Allowances

Section 112.061(7)(d), Florida Statutes, indicates that whenever travel is by privately owned vehicle, the traveler shall be entitled to a mileage allowance at a fixed rate of 29 cents per mile and reimbursement for expenditures related to the operation, maintenance, and ownership of a vehicle shall not be allowed when reimbursement is made pursuant to this paragraph. Section 112.061(7)(f), Florida Statutes, provides that monthly allowances may be granted in fixed amounts for use of privately owned automobiles on official business in lieu of the mileage rate provided in Section 112.061(7)(d), Florida Statutes. Such allowances must be reasonable and made on the basis of a signed statement of the traveler, filed before the allowance is granted or changed, and at least annually thereafter. The statement must show the places and distances for an average typical month's travel on official business, and the amount that would be allowed under the approved rate per mile for the travel shown on the statement if payment had been made pursuant to Section 112.061(7)(d), Florida Statutes.

On November 21, 2002, the City Council approved a monthly travel allowance of $375 for the City Administrator, and the City's contract with the City Administrator was amended accordingly. The City Administrator's revised contract also states that the City is to provide gasoline or expense reimbursement for gasoline that may be used for any and all City purposes. The City Administrator prepared and signed a statement indicating that an average typical month's travel totaled 357 miles. However, the City Administrator did not, of record, provide the City Council a typical month's travel statement containing details (i.e., places traveled to, distances traveled, frequency of travel) demonstrating how the 357 miles were calculated. In addition, it was not clear from the statement, which indicated that the 357 miles were for customary use of his vehicle and included non-reimbursable travel, whether the 357 miles represented mileage for official purposes only. Further, using the 357 miles purported to be a typical month's travel (assuming all miles are for official purposes), and the rate per mile provided in Section 112.061(7)(d), Florida Statutes, the monthly mileage reimbursement would only be $103.53. Consequently, the City has not, of record, demonstrated the reasonableness of the $375 monthly travel allowance approved for the City Administrator. Further, it was not apparent why the City Administrator's contract provides for gasoline or gasoline reimbursement since the travel allowance provided for by Section 112.061(7)(d), Florida Statutes, is intended to cover all travel expenses related to official business.

Recommendation: The City Council should require the City Administrator to provide documentation supporting the amount of typical miles traveled during a given month for official business, and amend the City Administrator's contract to provide a reasonable monthly travel allowance consistent with Section 112.061(7)(f), Florida Statutes. In addition, the City should recover from the City Administrator any amounts paid for travel allowances in excess of amounts that he was entitled to pursuant to Section 112.061(7)(d), Florida Statutes.

City Response

The City is not in agreement with the findings related to travel expenses. The City Council approved a written contract for the City Administrator that contained a provision for a monthly vehicle allowance of $375 per month. This amount is included on the City Administrator's Form W-2, Wage and Tax Statement, and taxes are withheld. The contract has been amended to designate this income as "additional wages" since that is in essence how the amount is treated.

Section F.S. 112.061 deals with the regulation of "travel expenses" as a reimbursement expense that is not included on an employee's W-2 Statement or taxes withheld. Section 112.061 has no application to Form W-2 wages. The mileage expenses set forth in sub-sections 112 .061(7)(d) and (f) regulate reimbursable mileage and travel expenses that would not otherwise be taxable income. The

contract in question provided, and provides, for the withholding of wages whether the income is referred to as a "vehicle allowance" or "other income". For these reasons, the mileage calculation and statement requirements of 112.061(7)(d) and (f) have no application to the contract in question.

Follow-up to City Response

The amendment to the City Administrator's employment contract redesignating the $375 monthly payment as "additional wages" instead of a "monthly travel allowance" will exempt future payments from the restrictions imposed by Section 112.061, Florida Statutes. However, payments made prior to the amendment of the contract remain payments for a monthly travel allowance (see Attorney General Opinion No. 80-3). The parties to this contract are bound by their characterization of the payment in the contract notwithstanding any other factors considered in the actual treatment of the amounts in question. See Attorney General Opinion No. 2003-55 stating that, "the terms of a valid written contract or instrument cannot be varied by a verbal agreement or other extrinsic evidence where such agreement was made before or at the time of the instrument in question; all such verbal agreements are considered as waived by and merged in the written contract." Therefore, we continue to recommend recovery of amounts paid in excess of the limitations imposed by Section 112.061(7)(d), Florida Statutes.

Finding No. 30: Unauthorized/Unsupported Travel Expenses

Pursuant to Section 112.061(3)(b), Florida Statutes, travel expenses of City officials and employees are limited to those expenses necessarily incurred by them in the performance of an authorized public and City purpose, and must be within the limitations prescribed by that Section. Section 112.061(6), Florida Statutes, provides for meal allowances in amounts that depend on the length of time of travel. For short or day trips, referred to as Class C travel, where the traveler is not away from his or her official headquarters overnight, meal allowances are dependent upon the times of departure from and return to official headquarters. For overnight travel (referred to as either Class A or Class B travel), travelers are allowed either $50 per day including meals and lodging or, if actual expenses exceed $50, actual lodging expenses plus meal allowances in accordance with Class C requirements (i.e., subject to departure and arrival times).

Our review of seven travel advances, disclosed that five advances, totaling $741, were paid with no actual expense form required of travelers after the travel took place. Nor did City records, in these instances, otherwise demonstrate that the travel actually took place and that the actual expenses were at least as much as those anticipated on the travel advance request. In addition, we noted the following inconsistencies with Section 112.061, Florida Statutes, or good business practices regarding the calculation of travel advances:

- Some employees were reimbursed $50 per day, while others were reimbursed $21 per day, for meals alone (i.e., with lodging paid separately). Additionally, one employee was paid for one day's per diem at $75 with no explanation as to how the reimbursement was calculated. Although $21 per day is the maximum meal allowance per day pursuant to Section 112.061, Florida Statutes, such travel would require the traveler to leave official headquarters prior to 6 a.m. and return to official headquarters after 8 p.m. Since the time of departure or return was not identified for these employees, we could not determine the amount of meal allowances to which they were entitled.

- Two employees were reimbursed for meals that were provided as part of the registration fee paid by the City for the conference they attended. As such, it was not apparent why these employees were entitled to reimbursement for the meals.

Similar problems were also noted in the City's 2001-2002 fiscal year annual financial audit report.

Recommendation: The City should ensure that employees provide adequate supporting documentation (including properly completed travel forms that provide for departure and arrival times) after the date(s) of travel for any travel expense claims. In addition, the City should ensure that travel expenses reimbursed are in accordance with City policy, and such policy is applied to all travelers equally.

City Response

The City adopted SOP ADM-109 as part of Resolution 2003-05, which sets forth the travel reporting and reimbursement requirements for all employees, including the proper forms to be used for travel expenses and authorization. The City will require that such forms be used and the policy be followed. Regarding the specific findings set forth above, the City has verified that all indicated travel in fact did occur.

Vehicle Usage

Finding No. 31: Vehicle Utilization Records

Although the City Council adopted Comprehensive Standard Operating Procedures in March 2003, these procedures did not address the use or assignment of City-owned vehicles. In August 2003, the City Administrator advised that the City's unwritten vehicle usage policy is that no vehicles may be taken home unless the employee is on call during the period in which the vehicle is taken home, supervises employees who are on call, or is a public safety officer. He further indicated that the only employees who meet these requirements would be the rotating on call employees in the Water Department, the Public Works Department Head, and various police and emergency services unit personnel on a rotating basis.

Employees assigned vehicles on a 24-hour basis were not required to maintain vehicle usage logs showing miles traveled on City business and miles related to personal use (e.g., driving the vehicle to and from the employee's home). Absent this information, the City cannot clearly demonstrate that vehicles assigned on a 24-hour basis are used primarily for a public purpose and used only incidentally for the personal benefit of the employee assigned the vehicle. In addition, the personal use of an employer-provided vehicle is a fringe benefit that must be included in the employee's gross income as compensation for services pursuant to United States Treasury Regulation Section 1.61-21(a)(3) unless otherwise excluded (e.g., in the case of clearly marked police or fire vehicles), and vehicle usage logs would provide the City a means of determining the value of personal usage.

Recommendation: The City Council should require employees to maintain detailed vehicle usage logs for vehicles assigned on a 24-hour basis. These logs should demonstrate that the vehicles were used primarily for a public purpose and only incidentally benefited the employee personally, and should be used to determine the value of personal use to be included in the employee's Form W-2, Wage and Tax Statement, when applicable.

City Response

The City will adopt an appropriate vehicle utilization policy and require written logs to be kept for such use. The City's policy presently does not allow such vehicles to be used for any personal use and is limited to public safety, water department personnel on call, and public works department head who is supervising persons on call, and/or is on call himself.

Volunteer Fire Department

In May 1999, the City Council, through its adoption of Ordinance No. 357, created, within the City, the Mexico Beach Volunteer Fire Department. In August 2000, the City's Volunteer Fire Department formed a nonprofit corporation, entitled The Mexico Beach Department of Public Safety-Mexico Beach Volunteer Fire Department, Inc. (Corporation). According to its Articles of Incorporation, the Corporation was formed to combat fires, save lives and property, and provide emergency care to the residents of Mexico Beach, to go to the aid of other fire agencies when in dire need and requested to do so; to comply with mutual aid agreements; to aid in the prevention of fires; and to perform other services as may be necessary for the good of the community. As of March 31, 2003, the City's Volunteer Fire Department included 16 volunteers.

Finding No. 32: Financial Reporting

The Governmental Accounting Standards Board (GASB) issued Statement No. 14, The Financial Reporting Entity, in June 1991. The concept underlying the definition of the financial reporting entity is that elected officials are accountable to their constituents for their actions. Because one of the objectives of financial reporting is to provide users of financial statements with a basis for assessing the accountability of those elected officials, the definition of the financial reporting entity should be based on accountability.

According to GASB Statement No. 14, paragraph 20, component units are legally separate organizations for which the elected officials of the primary government are financially accountable. If it is determined that a component unit exists, it must be included in the financial statements of the primary government. In determining whether the Corporation is a component unit of the City, we reviewed the relationship between the City and the Corporation, and took into consideration that the Corporation is a separate legal organization, the active Corporation officers are appointed by the City Council or a City Council appointee, the Corporation bylaws provide the City control over the Corporation's budget, the City is required to reimburse the Corporation for the firefighters' compensation, and the Corporation is not fiscally independent as contemplated by GASB Statement No. 14, paragraph 16. We determined that the Corporation is a component unit of the City and should have been reported as such in the City's financial statements for the fiscal years ended September 30, 2000, 2001, and 2002. However, our review of the City's financial statements for these fiscal years disclosed that the Corporation was excluded.

Recommendation: The City should ensure, in the future, that the Corporation is treated as a component unit in the City's financial statements, and that the Corporation's activities are subjected to audit as part of the City's annual financial audit required by Section 218.39, Florida Statutes.

City Response

The City is in agreement with the finding related to financial reporting of the Volunteer Fire Department. The Volunteer Fire Department ("VFD") is a separate legal entity that was created by the City as a Florida not-for-profit corporation. The City currently appoints the Fire Chief and he in turn appoints the other officers of the board. The City also approves a portion of the VFD's budget. Currently these circumstances create an environment whereby the City has the ability to significantly influence the programs, projects, activities, or level of services performed by the Organization. The City is in the process of determining whether they will restructure the VFD so it is not a component unit or whether they will properly treat them as a component unit from this point forward.

Finding No. 33: Meeting Notices

Section 286.011(1), Florida Statutes (commonly referred to as the Sunshine Law), states that all meetings of any board or commission of any State agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided by the Constitution of the State of Florida, at which official acts are to be taken are declared to be public meetings open to the public at all times. Pursuant to Sections 286.011(1) and (2), Florida Statutes, the City Council must provide reasonable notice of all such meetings, and minutes of such meetings must be promptly recorded and open to public inspection.

The Attorney General has opined (e.g., in Opinion Nos. 2000-03 and 2002-53), that the Sunshine Law applies to private entities created by law or by public agencies, and also to private entities acting on behalf of those agencies in the performance of their public duties. Since the Mexico Beach Volunteer Fire Department was created by the City Council by Ordinance No. 357, and remains under the auspices of the City's Police/Fire Chief, who has control over all Volunteer Fire Department members, and performs the City's governmental function of fighting fires, it is subject to the Sunshine Law. According to the Corporation's President/Chief, the Corporation's meetings are open to the public; however, the meetings are not advertised or other public notice given.

Recommendation: To comply with the Sunshine Law, meetings of the Corporation should be noticed in accordance with Section 286.011, Florida Statutes.

City Response

The City is in agreement with the finding related to Meeting Notices by the VFD. We will comply with the requirements of Florida Statutes section 286.011(1) if we decline to restructure the department to ensure they do not meet the criteria for being reported as a component unit.

Finding No. 34: Cash Controls

The financial records of the Corporation are maintained by its treasurer, who is also an employee of the City. Pursuant to the Corporation's bylaws, three bank accounts are to be maintained: one for moneys donated for the purchase of fire equipment only (referred to herein as the "Donations Account"); one for moneys earned by the Volunteer Fire Department members (e.g., through a barbecue or fish fry), or donations specifically made to promote morale or goodwill for the Fire Department, entitled "Fireman's Fund;" and one savings account for any moneys in the Fireman's Fund that exceed $2,500 and any funds acquired from the sale of drinks in the vending machine located in the fire house. The Corporation has a fourth bank account, entitled the "Explorer's Post #343" that is used for a program through the Boy Scouts of America that helps youngsters learn about firefighting as a possible career. Our review of the cash controls over Corporation accounts disclosed the following deficiencies:

- One employee is responsible for processing all transactions and reconciling the bank accounts.
- One check was written from the Donations Account to "Cash," although the money was deposited in the Corporation's savings account. Issuing checks to cash increases the risk that funds could be lost or otherwise misappropriated.
- Documentation of reconciliations between bank statements and records was generally not retained.

- Within the Donations Account, which is designated by the Corporation's bylaws only for the purchase of fire equipment, we found checks written for other purposes. For example, donations for and expenses related to the Christmas Wishes project (to purchase gifts for underprivileged children) were deposited in and paid from this account. These donations and expenses should have been made through the Fireman's Fund instead. In addition, checks totaling $336 were written from the Donations Account to assist a family in paying expenses for traveling with a sick child although the donations for the sick child's family were deposited in the Fireman's Fund. On June 25, 2003, $100 was transferred from the Fireman's Fund to the Donations Account to reimburse it for part of these expenditures. Use of this fund for purposes other than the purchase of fire equipment violates the Corporation's bylaws.
- Receipts were not issued, and copies of donation checks were not maintained, to document the purposes of donations received. As such, it was not apparent, from the Corporation's records, that the Corporation utilized donations for donor-specified purposes. According to financial records kept by the Corporation's treasurer, donations totaled approximately $6,800 during the period October 2001 through September 2002.

Recommendation: To the extent possible, duties should be segregated to ensure that all phases of a transaction are not processed by one individual. To ensure that donations are used for specified purposes and that such use is properly documented, the Corporation should avoid writing checks to "Cash" when possible; use the Donations Account for donations and expenses related to the purchase of fire equipment only, as required by the Corporation's bylaws; document the purpose of donations received through the use of prenumbered cash receipts, when practicable, and retain a copy of donations made by check; and ensure that a proper accounting is maintained for each donation type.

City Response

Depending on the outcome of the City's review of this Corporation and its future treatment, the City will require that the Corporation establish and maintain independent financial policies and procedures that address all findings. If the City elects to make the Corporation a component of the City, then it may take over all appropriate accounts of the Corporation and apply existing policies and procedures. The City will seek to separate duties for all essential cash functions and better designate the purpose of a donation.

Other Matters

Finding No. 35: Conduit Debt

In October 1997, the City Council passed Resolution 97-13 to issue $150 million in bonds to finance the cost of the acquisition, renovation, construction, and equipping of public service facilities in the State of Florida. Subsequently, the City Council passed several resolutions that referred back to Resolution 97-13 and collectively authorized the issuance of bonds totaling $114,815,000 for various specified projects. From December 1997 to May 1999, the City issued $25,815,000 in bonds for three of these projects as follows:

Project	Authorizing Resolution No.	Authorizing Resolution Date	Issue Date	Issue Amount
Heritage House of Sarasota	97-16	12/02/97	12/30/97	$12,305,000
Heritage House of Seminole	98-8	12/15/98	12/30/98	7,230,000
Trousdale Foundation	99-7	04/29/99	05/05/99	6,280,000

These bond issues represent conduit debt as contemplated by Governmental Accounting Standards Board's Interpretation No. 2 because they are debt instruments issued by a governmental entity for the express purpose of providing capital financing for a specific third party that is not a part of the issuer's reporting entity. Accordingly, this debt is not reported as a liability on the City's financial statements. The bond proceeds from these issuances were to be loaned to three nonprofit corporations for use in acquiring, renovating, and improving public service facilities in the State of Florida. In return for the City acting as municipal issuer, the City was to receive upfront fees and continuing fees based on the amount of unpaid principal during the period of the bonds.

In October 2002, the City was named, among others, as a defendant in a class action lawsuit involving several bond issues, including the above-noted bonds relating to the Sarasota and Seminole projects. The lawsuit alleges that the stated issuers (including the City) of the municipal bonds provided no project oversight, and that almost all of the bonds are in default. We determined that the Trousdale Foundation bonds, although not associated with the lawsuit, are also in default. As of July 31, 2003, the City had paid $55,000 in legal fees to defend the lawsuit. Although the City was dismissed from the lawsuit in August 2003, the City Administrator indicated that an appeal will most likely be filed by the plaintiffs in the near future. As a result, the City will likely incur additional legal fees for its defense and may be subject to damages if the dismissal is overturned and the City is ultimately found liable.

Based on our inquiries and review of documentation provided by City staff, we noted the following regarding the City's administration and oversight of these bond issues:

- The lawsuit alleged, among other things, that official statements, including those for bonds related to the Heritage House of Sarasota and Seminole projects, "contained common and typical misrepresentations of material fact and omitted . . . other facts necessary to be disclosed." The lawsuit further stated that the misrepresentations and omissions included a practice by certain defendants of diverting bond proceeds, from real estate projects for which the bonds were sold, to personal uses. In response to our inquiry, we were advised that City management or other bond professionals involved in the transactions did not, prior to the issuance of the bonds, check references or otherwise obtain background information on individuals that approached the City about sponsoring the bond issues.

- According to bond documents, the City was to receive a total of $60,185 in upfront fees and from .075 to .125 percent of the unpaid principal balances in fees during the period of the loans. Amounts reported as fee revenues for these issues in the City's financial statements for the 1997-1998 through 1999-2000 fiscal years totaled $85,075; however, the City had not, of record, calculated the amount of such fees it was due, determined the amount of such fees that the City had actually received, or attempted to collect unpaid fees due, if any. It was noted in the 1999-2000 fiscal year annual financial audit report, under the heading "Failure to collect revenues due," that City staff were uncertain as to the revenues earned during the fiscal year and invoices were not prepared and sent to the debtor corporations.

- Although requested, we were not provided with written contracts with the bond professionals (e.g., bond counsel, financial advisor, underwriter) involved in the bond issues or evidence that bond professionals had been competitively selected. We were, however, provided with minutes of Council meetings approving contracts with bond professionals.

Recommendation: The City should carefully evaluate any future considerations of issuing conduit debt, including obtaining background information on potential borrowers and individuals associated with the issuances, and determining the City's responsibilities in the event of default. For any future bond issues, the City should competitively select bond professionals, use written contracts, document the process in its public records, and ensure that all fees due are collected.

City Response

The City is in agreement with the findings related to conduit debt as it relates to the Heritage Bonds. These Bonds were approved by a prior administration. The present council will carefully evaluate all future considerations of issuing conduit debt to include obtaining background information on potential borrowers, on individuals associated with the issuances, and determining the City's responsibilities in the event of default as recommended by your office.

Finding No. 36: Boat Trailer Parking Lot

The City currently owns two boat ramps that provide access to a canal within City limits; however, according to City staff, neither of these boat ramp locations provides for sufficient boat trailer parking. In July 2003, the City Council approved, and the Mayor signed, a letter of understanding between the City and a development corporation (Corporation). The letter outlines basic terms and conditions under which the Corporation would provide the use of approximately 5 acres of property to the City. The City would use the property for the construction and operation of a parking lot for boat trailers, which will include parking spaces and one courtesy dock. The use of the property by the City would be subject to an easement limited to, among other things, a period of no greater than two years. All improvements to the property will, upon termination of the easement, be owned by the Corporation. The July 2003 letter of understanding further provided that "There are additional important terms and conditions which must be discussed and agreed upon before the City and (the Corporation) can enter into a binding relationship with respect to the Property."

In response to our inquiry in November 2003, we were advised that the City had entered into a renewable two-year lease with the Corporation for use of the property at a rate of $1 a year, and that the lease requires that an easement be granted to the City before use of the parking facility begins. We were also advised that although the Corporation has not yet granted an easement to the City, improvements (totaling approximately $7,900 as of August 15, 2003) had already been made to the property. In addition, we were advised that the City plans to convert approximately 2 ½ acres of the property to a parking facility at an estimated cost of $125,000, and that the remaining 2 ½ acres of property may be expanded to provide additional parking spaces.

Although we were advised that the City had considered all relevant options for a new, relocated boat trailer parking lot, and the agreement with the Corporation was the most cost-effective solution, no documentation was provided evidencing consideration of other possible sites or otherwise supporting the analysis performed by the City to reach this conclusion. As such, the City has not demonstrated, of record, that this is the most economically viable option available. Further, we were advised that the property to be used by the City is part of a 100 acre tract of land being master-planned by the Corporation for future development, and that the Corporation plans to provide and maintain a public parking facility for the City; however, although the City has requested a

formal commitment from the Corporation, it had not, as of the time of our inquiry in November 2003, received such a commitment in writing.

Recommendation: The City Council should document in the City's public records how it was determined that the agreement is the most economically viable option available. In addition, prior to making any further improvements to the Corporation's property, the City should obtain the required easement from the Corporation and a written commitment from the Corporation that it will donate the improved property to the City.

City Response

The City is not in agreement with the findings related to boat-trailer parking lot as this is a local jurisdictional issue. The City is a duly incorporated municipality under the laws of the State of Florida, including Article VIII Section 2(b) of the State Constitution and F.S. 166.021. The City is authorized to conduct "any activity or power which may be exercised by the state or its political subdivisions", F.S. 166.021(2), and each municipality may exercise "any power for municipal purposes, except when expressly prohibited by law". F.S 166.021(1)(emphasis added).

Section 166.021(9)(c) specifically empowers municipalities to expend public funds for "economic development activities" such as "developing or improving local infrastructure" and "leasing or conveying real property". Subsection (c) declares that such expenditures constitute a "public purpose" under Florida law. Therefore, the City of Mexico Beach has the jurisdiction and authority to lease this property and to improve its infrastructure as a tourism/recreational attraction for the purpose of economic development. This is an issue specifically recognized as a local jurisdictional determination that the City will continue to review and proceed in the manner deemed most appropriate by its elected officials.

Follow-up to City Response

The Mayor, in response to this finding, indicated that the City is not in agreement with our findings; however, the Mayor did not state which specific facts cited in the finding the City is in disagreement with. The Mayor cited various laws that provide the City with home rule authority and various powers relating to developing, leasing, or conveying real property. We do not dispute the City's powers as cited by the Mayor; however, the point of our finding was that the City did not document, of record, that the City's contractual arrangement with the Corporation is the most economically viable option available, and that the City has requested, but not been provided with an easement granting the City use of the property, even though the City has already expended substantial funds improving the property, nor has the City obtained written assurances that the property will eventually be used to provide and maintain a public parking facility for the City. The Mayor did not provide additional documentation or information demonstrating that the concerns we raised in the finding have been addressed.

Finding No. 37: City of Mexico Beach Beautification Project

During the course of our audit of the City, we noted a check written for $625 from the City's General Fund to the City of Mexico Beach Beautification Project (the Project), a nonprofit organization. The check was to transfer donated funds relating to checks inadvertently written to the City of Mexico Beach that had been deposited into the General Fund. We were advised that although a City employee functions as the bookkeeper for the Project, the Project was unrelated to the City government. Upon inquiry, we were provided with a copy of the Project's application for a Federal Employer Identification Number. This application indicates that the Project started in February 2001 and the address indicated is the address for City Hall. In the application, the principal activity noted is "Community Improvement Projects." We were also advised that the Project was formed for accepting monetary donations for "Tom Sawyer Day," an event held each March in which participants donate their time in beautifying the City's parks. We reviewed the records maintained for the Project and noted the following:

- A City employee maintains the Project's financial records at City Hall, and is an authorized signatory on the Project's bank account.
- While many contributions to the Project were accomplished via checks written to "Tom Sawyer Day," we also noted some checks that were deposited in the Project's bank account that were written to the "City of Mexico Beach" with "municipal fund" indicated in the "For" line of the donated checks. One of the checks deposited into the Project's account was made payable to "City of Mexico Beach (A/P)," which appears to be in payment of a bill.
- The City has had three Tom Sawyer Days since February 2001 held at three different City parks. In two of the parks, a "Tom Sawyer Day" sign was erected that includes the City's logo.
- Invoices paid from the Project's bank account for materials to be used for Tom Sawyer Day indicated the City's sales tax exemption number, and the purchases were exempted from sales tax.

Various laws apply to the administration of public funds held by a municipality. For example, pursuant to Section 119.07, Florida Statutes, every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee. In addition, public funds are subject to budgetary constraints as provided for in Section 166.241, Florida Statutes, and are subject to audit pursuant to Section 218.39, Florida Statutes. Nonpublic funds are not subject to these constraints and, as such, may not be subject to the same degree of accountability as are public funds. Consequently, it is imperative that contributors know whether their contributions are going to be considered public or nonpublic funds.

Although it is not unlawful for private citizens to form an organization to improve City parks, it is important that contributors to the organization understand that the organization is not part of the City's government. Since many contributors made checks payable to the City, and considering the other indications of the City's involvement as noted above, it is possible that some individuals believed it was the City to which they were contributing.

Recommendation: To avoid confusion within the community, the City should operate separately from the administration of the Project's funds, including authorizing expenditures, check-writing, deposit of donation collections, and bookkeeping responsibilities. Any checks inadvertently written to the City should be returned to the donor with an appropriate explanation. The City should also not lend the City logo to signs connected to Tom Sawyer Days and should advise vendors and administrators of the Project that it is illegal for the City's sales tax exemption number to be used by another organization.

City Response

The "Tom Sawyer Day" projects are performed by a group of private citizens willing to donate their time and monies to improve city parks. This organization is not subject to the provisions of F.S. 119.07 or 166.241. The organization is entirely separate and distinct from city operations. The only relationship to the City is that the City is the beneficiary of the projects. This organization has contributed over $60,000 in goods and services to the city parks over the last three years.

With regard to the specific findings, the City will return any checks that are written to it for future Tom Sawyer Day projects. The City does not allow its sales tax ID number to be used by other non-profit organizations. If the City wishes to accept donations from Tom Sawyer projects and then purchase goods or services with such contributions under its own tax ID number, it will properly account for such transactions. As to the use of the City logo on signs in conjunction with Tom Sawyer Day projects, such use occurred only because the City had, or completed, a parallel improvement to the park in question at the same time the Tom Sawyer project was

completed. In some cases, the Tom Sawyer Day project would privately donate goods or services to a project the City could not afford to complete. The City will make every effort to ensure that the Tom Sawyer Day participants understand that such group is a separate and distinct entity from the City. Finally, the City will ensure that a new account is required to be opened by the organization in question that does not use fulltime city employees as signatories on such account(s).

Finding No. 38: Council Meetings

Pursuant to Section 286.011, Florida Statutes, the City was required to provide reasonable notice of all meetings of the City Council and minutes of City Council meetings were required to be promptly recorded and open to public inspection. To ensure that minutes accurately reflect all actions and proceedings of the City Council, the minutes of each meeting should be reviewed, corrected if necessary, and approved at a subsequent meeting.

During the audit period, the City Council generally held one regular meeting per month and several special meetings. Our review of transcribed minutes prepared for Council meetings held during the audit period, and for selected meetings held prior to the audit period, disclosed the following:

- The Council meeting on November 12, 1997, at which the presentation by the Heritage House for the Sarasota bond issue was given to Council members (see Finding No. 35), was held in Panama City. The Attorney General, in Opinion No. 2003-03, indicated that pending passage of a special law authorizing the conduct of city commission meetings outside its boundaries, commission meetings should be held at a place that is accessible to the public and within its jurisdiction. A public hearing for the bond issue was held in the City of Mexico Beach on December 2, 1997; however, according to the minutes for the meeting, the Council read the related resolution by title only and the public may not have been aware of the complete details.

- Although meetings generally were properly noticed, one meeting, held on November 21, 2002, at 7:30 a.m. according to the minutes for that meeting, was not properly noticed. There were two notices prepared for the meeting. One notice indicated that the meeting was to be held on November 21, 2002, at 6:00 p.m., and the other notice indicated that the meeting was to be held on November 22, 2002, at 7:30 a.m. Among the items on the agenda for this meeting were requested variances, approval of a Statewide Mutual Aid Contract, approval for the purchase of two used police cars, and employee reviews and salary/benefits adjustments for three top-level City management employees.

- Minutes of Council meetings were not always timely approved. Of the 62 meetings held during the period reviewed, 6 (10 percent) were not approved within 60 days after the meeting was held, with the number of days ranging from 61 days to 595 days after the meeting.

Recommendation: The City should ensure that City Council meetings are held within the City's jurisdiction and held in a place that is accessible by the public. The City should also ensure that all meetings are properly noticed and that all minutes are reviewed, corrected if necessary, and timely approved by the City Council.

City Response

The City routinely follows all requirements under Florida law for noticing its public meetings and holding its meetings within the City's jurisdiction. The referenced meeting that occurred in 1997 was an isolated instance dealing with the Heritage Bond issue conducted by the prior administration. The referenced meeting on November 22, 2002, was properly noticed and open to the public. As previously discussed, that meeting was rescheduled from its original time of 6 pm, to 7:30 am the following morning, because of

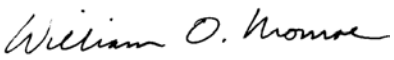
scheduling conflicts with council members; however, the notice was properly and timely posted. The minutes from that meeting incorrectly stated the date of that re-scheduled meeting.

As to the approval of minutes, it is the City's practice to approve the minutes as soon as possible following the preparation of such meeting minutes. Typically, a regular meeting's minutes will be approved at the following month's meeting. Special meeting minutes will be approved at the next available regular or special meeting following preparation of the minutes. Section 286.011 does not provide a deadline for "timely" approval of meeting minutes. Sub-section (2) merely provides that meeting minutes "shall be promptly recorded … and such records shall be opened to the public." The meeting minutes by the City are promptly recorded and available for public inspection in a timely manner; usually within ten days; however, the final approval of the minutes by council may not occur for 30 to 60 days. Approval time-lines for meeting minutes are not mandated by F.S. 286.011.

AUTHORITY

Pursuant to the provisions of Section 11.45(2)(k), Florida Statutes, I have directed that this report be prepared to present the results of our operational audit of the City of Mexico Beach, Florida, for the period October 1, 2001, through March 31, 2003, and selected actions taken prior and subsequent thereto.

Respectfully submitted,



William O. Monroe, CPA
Auditor General

To promote accountability in government and improvement in government operations, the Auditor General makes audits of State agencies and local governments, and conducts special audits, studies, and reviews as directed by the Legislature.

This audit was conducted by Marilyn Rosetti, CPA, and supervised by Ted J. Sauerbeck, CPA. Please address inquiries regarding this report to James M. Dwyer, CPA, Audit Manager, via e-mail at jimdwyer@aud.state.fl.us or by telephone at (850) 487-9031. This report, and other reports prepared by the Auditor General, can be obtained on our Web site at www.state.fl.us/audgen; by telephone at (850) 487-9024; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

APPENDIX A
BACKGROUND

AUTHORITY

Chapter 67-1717, Laws of Florida, established the Town of Mexico Beach, Florida in 1967. Through Ordinance No. 156 and a vote by the Town's electors in 1984, the name was changed to the City of Mexico Beach, Florida. The City is located in Bay County, Florida. As provided in Article VIII, Section 2.(b) of the State Constitution, and Section 166.021(1), Florida Statutes, the City is empowered to conduct municipal government, perform municipal functions, and render municipal services.

In 1973 the Florida Legislature enacted the "Municipal Home Rule Powers Act" (Chapter 73-129, Laws of Florida). This Act established Section 166.021, Florida Statutes, which extended to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the Constitution of the State of Florida, general or special law, or county charter, and removed any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those expressly prohibited. The "Municipal Home Rule Powers Act" also provided that all then existing special acts pertaining exclusively to the power or jurisdiction of a particular municipality, except as otherwise provided in Section 166.021(4), Florida Statutes, were to become ordinances of the municipality on the effective date of the Act (October 1, 1973). There have been no special acts of the Florida Legislature pertaining to the City since Chapter 72-616, Laws of Florida. Procedures for amending the City Charter and establishing new ordinances are set forth in Sections 166.031 and 166.041, Florida Statutes, respectively.

The City's Charter, as established by Chapter 67-1717, Laws of Florida, and amended by Chapter 72-616, Laws of Florida, and ordinances, establishes the general powers and duties of the City Council; provides for City officials, including an elected Mayor-Councilman, and an appointed Mayor Pro-tem, City Administrator, and Compliance Inspector; establishes administrative requirements, procedures, and guidelines for various City activities and functions; and establishes provisions for the administration of City Council meetings.

ORGANIZATIONAL STRUCTURE

As provided by Article VIII, Section 2.(b) of the State Constitution, the City is governed by an elective legislative body. Sections 5 and 8 of Chapter 67-1717, Laws of Florida, as amended by ordinances, provide that the City Council consists of five members, one of which shall be Mayor-Councilman, who shall be elected at large and serve for two-year terms. After each regular or special election for Council members, the Council shall meet and elect from among their number a Mayor Pro-tem.

The City Council serving during the period October 1, 2001, through March 31, 2003, were:

Christine Brinkmeier, from December 2, 2002
Cecil J. Jones
Kathy Kingsland
Carolyn Metcalf, to December 1, 2002
David Miller, to December 2, 2001
Chuck Risinger, from December 3, 2001
David Thompson

During the period October 1, 2001, through March 31, 2003, the Mayor was Kathy Kingsland and the Mayor Pro-tem was Cecil J. Jones.

RELATED AUDITS

Our audit did not extend to an examination of the City's financial statements. The City's financial statements and Federal awards administered by the City, for the fiscal year ended September 30, 2002, were audited by a certified public accounting firm and the audit report is on file as a public record with the City.

CITY OF MEXICO BEACH
P.O. BOX 13425 • MEXICO BEACH, FLORIDA 32410
Phone: 850-648-5700 Fax: 850-648-8768

December 24, 2003

Auditor General, State of Florida
c/o William O. Monroe, Auditor General
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

[Sent Via Email and Regular Mail]

RE: Responses to Preliminary and Tentative Findings of State Audit—City of Mexico Beach, FL.

Dear Mr. Monroe:

Enclosed please find the City's Responses to the Preliminary and Tentative Audit Findings issued by your office on or about November 26, 2003. Respectfully, the City requests that its Responses be included immediately after each specific Finding(s), which become part of the Auditor General's Final Report. The Responses are as follows:

General Management Controls

Response No. 1 – Written Policies and Procedures

The City Council adopted comprehensive written policies and procedures concerning areas of critical concern on March 11, 2003, by Resolution No. 2003-05. This adoption occurred during the audit period and before the actual field audit by the Auditor General. Many of the adopted policies and procedures were already in full force and effect by the City staff before the audit occurred although no formal adoption had been made by the City Council. The City already has implemented most new written policies and procedures and the remaining new policies and procedures will be implemented on or before July 1, 2004.

Response No. 2 – Separation of Duties

On March 11, 2003, by Resolution No. 2003-05, the City adopted comprehensive written policies and procedures, including Standard Operating Procedure ("SOP") GEN-02 Separation of Duties, which specifically addresses this finding. SOP GEN-02 specifically addressed collections of general fund monies and payroll processing. In

addition to the requirements of SOP GEN-02, the City Council has authorized a separate bank account for payroll processing. Also, the City presently requires, and required during the entire audit period, two or more signatures on each City check. Typically, checks are executed by two, separate city council members and not the City Clerk. The City Council also is considering hiring an additional fulltime staff person to allow better separation of duties in this and other areas; however, given the small size of the City desired separation of duties is not always achievable and cost effective. The Mayor or Mayor pro tem may be requested to review in writing all necessary bank reconciliations.

Budgetary Controls

Response No. 3 – Budget Preparation

The City will make every effort to accurately estimate amounts to be carried over from the prior fiscal year for both enterprise and general fund budgets; however, these amounts cannot be determined before the adoption of the general fund budget and still meet the requirements of F.S. 166.241(3). Once the actual amounts are known to the City, it will amend its budget(s) as required by law. The City has a written budget policy, SOP BGT-02, which it will review and amend if necessary.

Response No. 4 – Budget Overexpenditures

Pursuant to SOP BGT-02, as part of Resolution 2003-05, the City specifically addressed in writing the budgetary level of control delegated to its staff and the process of amending the budget(s) during the fiscal year as needed and in accordance with F.S. 166.241(3). The City Council routinely amends its budget as part of its approval of any unanticipated expenditures.

Cash in Bank

Response No. 5 – Bank Reconciliations

The bank reconciliation findings discussed herein deal only with the loan proceeds from the Gulf Breeze Bond, issued in 1997, for financing of the City's sewer system and related infrastructure, and not with the standard bank accounts of the City. The complicated nature of this transaction is discussed in detail by the State Auditor in its Finding Nos. 13-15. The City has hired an independent accounting firm that will handle all monthly bank reconciliations on this account in the future, along with other transactions. The problems with the bank statement reconciliations derive primarily from incorrect statements issued by the banking institution, not the City, and this has been resolved with the assistance of our independent accounting firm.

Response No. 6 – Check Processing

The City now retains all voided checks and stamps such checks six times as "voided" on the face of the check. The City will review this procedure with its independent

accounting firm to insure its reliability and follow the requirements of SOP CSH-103 dealing with problem checks.. Past checks that were unaccounted for were destroyed and now will be retained as set forth above. None of these destroyed checks revealed any attempted wrongful deposits or endangered funds of the City.

Investments

Response No. 7 – Investment Policy

The investment policy findings discussed herein deal only with the loan proceeds from the Gulf Breeze Bond, issued in 1997 for financing the City's sewer system and related infrastructure. The complicated nature of this transaction is discussed in detail by the State Auditor in its Findings Nos. 13-15. Although any investment policy will be used for all funds managed by the City, these findings only deal with the Gulf Breeze loan proceeds. The City previously adopted relevant policies and procedures dealing with investment options (SOP CSH-109). The City will review and amend such policies as may be necessary or re-invest the Gulf Breeze funds in accordance with its existing investment policies and in accordance with F.S. 218.415(17). The City also is considering re-financing the entire Gulf Breeze bond debt.

Response No. 8 – Investment Earnings

As discussed above in Response No. 7, the City previously adopted a written investment policy by Resolution 2003-05, SOP CSH-109. Under that policy, the City Clerk checks the FSBA interest rate on a monthly basis to determine if it is competitive with existing investment rates used by the City for surplus cash amounts. Since this policy was initiated in early 2003, the SBA rate has not been competitive with existing non-SBA City investments. The City will continue to apply this policy and check the SBA rate on a monthly basis. With regard to the GIC for investment of the Gulf Breeze proceeds, such funds are restricted pursuant to the terms of the loan agreements. The City, apparently, adopted by ordinances and resolutions from 1997 through 2001 the investment parameters of the Gulf Breeze loan agreements. Part of those loan agreements include the options for investment and re-investment, which may serve as the adopted investment "policy" for the City at that time. The City is investigating the possibility of re-financing the entire Gulf Breeze debt and will seek advice of bond counsel as to the proper investment categories until re-financing can occur.

Fixed Assets

Response No. 9 – Fixed Asset Records

Pursuant to Resolution No. 2003-05, the City adopted SOPs FA-101 and FA-102 which address general ledger control accounts, recording of assets, asset classifications, asset descriptions, and acquisition/disposal information. The City has inventoried all the fixed assets of the general fund and the enterprise funds over the last two years and has substantially completed data entry of this information into its IMS computer system.

Delays with the system have delayed this process, but the City has resolved these delays. The lack of historical fixed asset records also have caused a delay in recording and verifying this information. The City has discovered no loss of properties during the audit period.

Response No. 10 – Tangible Personal Property Inventory

See Response No. 9, above. The City annually updates its fixed assets in accordance with its written policies and procedures.

Response No. 11 – Sale of Surplus Property

The City has addressed potential record-keeping deficiencies by Resolution 2003-05 in SOPs FA-101 and PUR-101, including bidding procedures. The City has mandated that a certain minimum documentation be kept as a public record relating to sale or disposition of assets. As to the specific items referenced in this Finding where bids were not available, it would appear that the State Auditor was given all bids that were made on the properties in question and many of the items that were bid on received only a single bid. Thus, there were no competing bids to produce or related records. The items placed for bid as surplus typically were old, unusable, and extremely low-valued items.

Response No. 12 – Sale of Abandoned Property

The City will seek advice of counsel relating to the requirements of F.S. 705.103 and determine if any portion of the proceeds resulting from the sale of property is due to the State School Fund. It would appear that if any vehicles were transferred to the City that the provisions of F.S. 705.103 would have no application. The City will verify the ownership of the 1990 Wave Runner and take the appropriate actions thereafter.

Long-Term Debt

Response No. 13 – Debt Management

The City is in agreement with the findings related to debt management. The City is in the process of analyzing its existing debt structure specifically, the Gulf Breeze loan, considering current and future anticipated interest rates with the help of its accounting firm.

Response No. 14 – Use of Loan Proceeds

The City is in agreement with the findings related to the use of Gulf Breeze loan proceeds, excluding the $50,000 amount deemed to be used for "paving not related to the wastewater system". This amount was used for paving related to the City's wastewater system. As to the remaining funds, these expenditures were authorized by the prior administration. The current administration believes the City's auditors at the time should

have ensured bond council approval was obtained prior to the commencement of the transactions. The City is now in the process of obtaining approval from bond council after the fact for the projects not previously approved.

Response No. 15 – State Revolving Fund

The City is in agreement with the findings related to the SRF loan contract of May 1997 as it relates to disclosing the terms of the Military Point Advanced Wastewater Treatment Facility contract. The MPAWWTF contract, paragraph 18, indicates that this portion of the SRF loan will be used for the construction of the portion of the facility that will serve the City of Mexico Beach. The payments to Bay County indicate a component of the expense that is being used to pay down this debt. However, the City did not receive any of the $969,424 proceeds from the SRF loans, we have no ownership interest in the infrastructure that these proceeds financed, and there is not debt instrument related to these proceeds signed by the City of Mexico Beach. It is our understanding and we have confirmed with the County's attorney that we are not directly liable, nor contingently liable for this debt. In addition, Bay County has not recorded a receivable related to this portion of the debt service from Mexico Beach. We agree that it would benefit the users of the financial statements to adequately disclose the terms of this contract so that it is clearly understood. We are currently in the process of seeking a legal determination as to the necessity of amending paragraph 18 of the contract to more clearly indicate that the City is not liable for these SRF proceeds.

Restricted Resources

Response No. 16 – Accountability for Restricted Funds

The City is not in agreement with the findings related to accountability for restricted resources. While we agree that Florida's Uniform Accounting Manual and NCGA-1 state that proceeds of specific revenue sources that are legally restricted to expenditures for the specific purpose should be accounted for in a special revenue fund, NCGA-1 makes the point that it is possible to account for restricted resources directly in the general fund if these restricted resources are used to support expenditures that are usually made with the general fund. Of the $58,222 reported by the City as donations, the majority of the monies, which consisted of Mexico Beach CDC contract payments for beach maintenance, canal dredging, rent, and beach projects, should have been classified as other income. In fact, only the remaining (non-CDC revenue) of $500 was restricted private donations. Since these donations are used to support expenditures usually made from the general fund, we believe that the donations are appropriately accounted for in the general fund. We have at this point set up separate general ledger account numbers to properly account for, and track any restricted funds that are accounted for in the general fund.

Response No. 17 – Grant Reimbursements

The City will adopt a new SOP related to the timing of requesting grant reimbursements so that they are requested as soon as reasonably possible following completion of the grant projects. The land acquisition grant for $150,000, issued in June of 2000, was received by a prior administration. In June 2001, it was discovered that the grant had not been completed for reimbursement. The reimbursement request was incomplete for various reasons and substantial new items, including title examinations, surveys and closing documents, were required for completion. The new administration completed the grant close-out. The necessary documents were obtained and submitted to the grant agency as soon as possible. The City met all requirements of the grant agency and the re-imbursement was made soon thereafter.

Cash Controls and Administration

Response No. 18 – Dockage Fees

The City will revise its contract with the Assistant Harbormaster to require that all rental contracts be submitted to the City. The City will revise the slip rental contract for vessels to be pre-numbered forms and include specific vessel length and desired slip options. The City Harbormaster already makes periodic inspections of the canal slips and rental contracts and this will continue as recommended.

Response No. 19 – Fence, Sign, and Driveway Permits

The City now uses pre-numbered forms for issuance of fence, sign, and driveway permits and separates, to the extent possible, the persons responsible for collection of such fees and the approval of the permits. See also Response No. 2 relating to Separation of Duties. Accountability and reconciliation of these permits will be established on a scheduled basis.

Revenues and Other Receipts

Response No. 20 – Water, Sewer, and Sanitation Late Fees

The City is in agreement with the findings related to the water, sewer and sanitation late fees. It is our understanding that the omission of the provision for late fees to be charged on sanitation charges as expressed in ordinance 370 by the prior administration was an unintentional oversight. While we are in agreement with the finding, we believe that the administrative burden and costs associated with trying to determine which accounts were overcharged by what amount would be unduly burdensome and costly. We are currently complying with the ordinances as approved. As a remedy for this oversight the City will consider advertising in the local newspaper that is used for procurement purposes, that the City has incorrectly charged late fees on sanitation charges, or other appropriate remedy. Anyone who comes to the City with proper documentation supporting his or her overcharges will be reimbursed accordingly.

Response No. 21 – Hiring Practices

By Resolutions 2003-01, -05, and 08, the City has adopted new written policies controlling the hiring process, including SOPs ADM-105 and SAO-103. SAO-103 requires applications to be completed, references/work experience be checked in accordance with the nature of the position and the type of assets to be handled by the applicant, and verified for the record, and a copy of all relevant licenses and certificates be kept on file.

With regard to the specific findings, neither the City Clerk nor City Administrator was required to complete an application for employment. The police department verifies all applicants on-line as part of the application process, and if an applicant fails to have a clean driving record, the application is rejected. References and work experience is verified and checked by the Department Head recommending hiring of the position and, typically, places a check or other mark on the application of the references/work experiences checked. In the future, the notes will be made more distinct and/or placed on a separate form for third-party reviewers who are not familiar with the process. The six-month probationary period for certain positions is reflected in the City's Personnel Policy and has been endorsed by the city council has the period for meeting special job description requirements, such as licensing. The City will consider formally adopting another resolution to explain this practice in detail.

Response No. 22 – Nepotism

The City has revised its Personnel Policies pursuant to Ordinance 431 to eliminate the term "supervise". The employee in question was hired in October 2000 with the full approval of the prior council and before the adoption of the new personnel policies. The City Administrator will control, evaluate and review the employee in question. The Personnel Policies are in full compliance with F.S. 112.3135 and, as previously explained, the City Administrator, not the Department Head, evaluated the employee in question during his annual review.

Response No. 23 – Council Members' Compensation

The City is not in agreement with the finding related to the Council Members' compensation. While we agree with the federal state reference guide's determination of council member's status, it is our contention that the $400 per month that the Mayor receives and the $200 per month that the other Council Members receive is paid for the purpose of offsetting expenses incurred by the Council Member in the performance of his or her duties and not compensation in the form of salary. Rather than an accountable plan, the Council Members are paid a fixed amount reported to them annually on a form 1099 that they include on their Schedule C. After deducting expenses, the amount that remains, if any, is subject to income and self-employment taxes. This policy is consistent

with municipalities throughout Bay County. All Commissioners and Council Members paid less that $600 per month are receiving 1099's. All that receive in excess of $8,400 per year are receiving W-2's. We believe this is consistent with the intent of the payments and the Internal Revenue Service's twenty factors indicating an employer-employee relationship. We will correct references referring to these payments as expense reimbursements and remove the references to them as compensation.

Response No. 24 – Fringe Benefits

The City will consult with its accounting firm to determine if any of the above-mentioned benefits are in fact non-excluded fringe benefits that should be included on employees W-2 Statements. The City will then make any appropriate adjustments as necessary. With regard to all specified benefits set forth above, the City believes that such benefits are excludable under the Internal Revenue Code.

Procurement of Goods and Services

Response No. 25 – Inadequately Documented/Unauthorized Expenditures

The City believes that the expenditures set forth above do serve a public purpose and meet all requirements of Florida law. The City will consult with its legal counsel and accounting firm to validate these expenditures of the past and for the future and seek to better document its "public purposes". The City has stopped any new purchases for employees that may be used at home in full or part. For example, the City no longer finances the purchase of weapons by new police officers to use on duty (but owned individually by the officer). The City now purchases the weapons, issues them to the officer(s), and the City retains ownership of the weapons.

Response No. 26 – Disbursement Processing

The City has adopted SOPs FA 101 and PUR 101 that provide detailed written guidelines for purchase requisitions, purchase orders, and receipt of goods. The City will ensure that these policies are timely followed and documented to the extent possible. Specifically, the City will seek to better time its purchase order requests and approvals as it relates to the ordering (and not receipt) of goods and services. However, in many cases the City Council has approved by vote a specific purchase before the purchase order has been completed or requested, which gives the mistaken appearance of unauthorized purchasing before the purchase order is approved. To avoid this confusion, the City will seek to reference on the purchase orders the approval date(s) when necessary.

Response No. 27 – Purchases of Goods and Services Exceeding $3,000

The City has adopted SOP PUR-101 that details the requirements for competitive bids and supplements the provisions in the City Code. The City's bids procedures require new and additional record-keeping activities. The City will seek to minimize any non-advertised bidding procurements as set forth in SOP PUR 101. As to the specific

findings relating to the services for moving a building ($28,000) and the lift station equipment ($15,242) these bids were noticed and posted. With regard to the Department of Public Safety items, the Police Chief followed the terms of the relevant grants that funded those items (traffic trailer-FDOT and fire equipment). Both of these items were grant funded and the manner of purchase was approved by the relevant agency. Additionally, these public safety items are specialty items not sold in the general market.

Contractual Services

Response No. 28 – Awarding of Contracts for Services

In January 2003, the City advertised and awarded a continuing contract for engineering services pursuant to F.S. 287.055. In August of 2003, the City advertised and later awarded separate contracts for legal, accounting, and auditing services. The contracts specify that detailed billing and description for services are required with each invoice. The City had not previously advertised for any of these services, except engineering, in the last approximately twenty years or more. The City intends to re-advertise for such services every 4-5 years.

As to the engineering services provided by Baskerville-Donovan, Inc. ("BDI") for the Water Transmission Line project, the City could not locate any advertisement for such engineering services, which exceeded $278,000. The City, however, did maintain a continuing contract for engineering services with BDI at the time.

Travel Expenses

Response No. 29 – Travel Allowances

The City is not in agreement with the findings related to travel expenses. The City Council approved a written contract for the City Administrator that contained a provision for a monthly vehicle allowance of $375 per month. This amount is included on the City Administrator's Form W-2, Wage and Tax Statement, and taxes are withheld. The contract has been amended to designate this income as "additional wages" since that is in essence how the amount is treated.

Section F.S. 112.061 deals with the regulation of "travel expenses" as a reimbursement expense that is *not included* on an employee's W-2 Statement or taxes withheld. Section 112.061 has no application to Form W-2 wages. The mileage expenses set forth in sub-sections 112 .061(7)(d) and (f) regulate *reimbursable mileage and travel expenses* that would not otherwise be taxable income. The contract in question provided, and provides, for the withholding of wages whether the income is referred to as a "vehicle allowance" or "other income". For these reasons, the mileage calculation and statement requirements of 112.061(7)(d) and (f) have no application to the contract in question.

Response No. 30 – Unauthorized/Unsupported Travel Expenses

The City adopted SOP ADM-109 as part of Resolution 2003-05, which sets forth the travel reporting and reimbursement requirements for all employees, including the proper forms to be used for travel expenses and authorization. The City will require that such forms be used and the policy be followed. Regarding the specific findings set forth above, the City has verified that all indicated travel in fact did occur.

Response No. 31 – Vehicle Utilization Records

The City will adopt an appropriate vehicle utilization policy and require written logs to be kept for such use. The City's policy presently does not allow such vehicles to be used for any personal use and is limited to public safety, water department personnel on call, and public works department head who is supervising persons on call, and/or is on call himself.

Volunteer Fire Department

Response No. 32 – Financial Reporting

The City is in agreement with the finding related to financial reporting of the Volunteer Fire Department. The Volunteer Fire Department ("VFD") is a separate legal entity that was created by the City as a Florida not-for-profit corporation. The City currently appoints the Fire Chief and he in turn appoints the other officers of the board. The City also approves a portion of the VFD's budget. Currently these circumstances create an environment whereby the City has the ability to significantly influence the programs, projects, activities, or level of services performed by the Organization. The City is in the process of determining whether they will restructure the VFD so it is not a component unit or whether they will properly treat them as a component unit from this point forward.

Response No. 33 – Meeting Notices

The City is in agreement with the finding related to Meeting Notices by the VFD. We will comply with the requirements of Florida Statutes section 286.011(1) if we decline to restructure the department to ensure they do not meet the criteria for being reported as a component unit.

Response No. 34 – Cash Controls

Depending on the outcome of the City's review of this Corporation and its future treatment, the City will require that the Corporation establish and maintain independent financial policies and procedures that address all findings. If the City elects to make the Corporation a component of the City, then it may take over all appropriate accounts of the Corporation and apply existing policies and procedures. The City will seek to separate duties for all essential cash functions and better designate the purpose of a donation.

Response No. 35 – Conduit Debt

The City is in agreement with the findings related to conduit debt as it relates to the Heritage Bonds. These Bonds were approved by a prior administration. The present council will carefully evaluate all future considerations of issuing conduit debt to include obtaining background information on potential borrowers, on individuals associated with the issuances, and determining the City's responsibilities in the event of default as recommended by your office.

Response No. 36 – Boat Trailer Parking Lot

The City is not in agreement with the findings related to boat-trailer parking lot as this is a local jurisdictional issue. The City is a duly incorporated municipality under the laws of the State of Florida, including Article VIII Section 2(b) of the State Constitution and F.S. 166.021. The City is authorized to conduct "any activity or power which may be exercised by the state or its political subdivisions", F.S. 166.021(2), and each municipality may exercise "any power for municipal purposes, except when *expressly* prohibited by law". F.S 166.021(1)(emphasis added).

Section 166.021(9)(c) specifically empowers municipalities to expend public funds for "economic development activities" such as "developing or improving local infrastructure" and "leasing or conveying real property". Subsection (c) declares that such expenditures constitute a "public purpose" under Florida law. Therefore, the City of Mexico Beach has the jurisdiction and authority to lease this property and to improve its infrastructure as a tourism/recreational attraction for the purpose of economic development. This is an issue specifically recognized as a local jurisdictional determination that the City will continue to review and proceed in the manner deemed most appropriate by its elected officials.

Response No. 37 – City of Mexico Beach Beautification Project

The "Tom Sawyer Day" projects are performed by a group of private citizens willing to donate their time and monies to improve city parks. This organization is not subject to the provisions of F.S. 119.07 or 166.241. The organization is entirely separate and distinct from city operations. The only relationship to the City is that the City is the beneficiary of the projects. This organization has contributed over $60,000 in goods and services to the city parks over the last three years.

With regard to the specific findings, the City will return any checks that are written to it for future Tom Sawyer Day projects. The City does not allow its sales tax ID number to be used by other non-profit organizations. If the City wishes to accept donations from Tom Sawyer projects and then purchase goods or services with such contributions under its own tax ID number, it will properly account for such transactions. As to the use of the City logo on signs in conjunction with Tom Sawyer Day projects, such use occurred only

because the city had, or completed, a parallel improvement to the park in question at the same time the Tom Sawyer project was completed. In some cases, the Tom Sawyer Day project would privately donate goods or services to a project the City could not afford to complete. The City will make every effort to ensure that the Tom Sawyer Day participants understand that such group is a separate and distinct entity from the City. Finally, the City will ensure that a new account is required to be opened by the organization in question that does not use fulltime city employees as signatories on such account(s).

Response No. 38 – Council Meetings

The City routinely follows all requirements under Florida law for noticing its public meetings and holding its meetings within the City's jurisdiction. The referenced meetings that occurred in 1997 were isolated instances dealing with the Heritage Bond issue conducted by a prior administration. The referenced meeting on November 22, 2002, was properly noticed and open to the public. As previously discussed, that meeting was rescheduled from its original time of 6 pm, to 7:30 am the following morning, because of scheduling conflicts with council members; however, the notice was properly and timely posted. The minutes from that meeting incorrectly stated the date of that re-scheduled meeting.

As to the approval of minutes, it is the City's practice to approve the minutes as soon as possible following the preparation of such meeting minutes. Typically, a regular meeting's minutes will be approved at the following month's meeting. Special meeting minutes will be approved at the next available regular or special meeting following preparation of the minutes. Section 286.011 does not provide a deadline for "timely" *approval* of meeting minutes. Sub-section (2) merely provides that meeting minutes "shall be promptly recorded ... and such records shall be opened to the public." The meeting minutes by the City are promptly recorded and available for public inspection in a timely manner; usually within ten days; however, the final *approval* of the minutes by council may not occur for 30 to 60 days. Approval time-lines for meeting minutes are not mandated by F.S. 286.011.

Respectfully submitted,

Kathy Kingsland

Kathy Kingsland, Mayor
City of Mexico Beach, FL