

# COUNCIL MEETING

Municipal Building  
175-5<sup>th</sup> Street North  
Second Floor Council Chamber

CITY OF ST. PETERSBURG

October 13, 2016  
3:00 PM

**A. Meeting Called to Order and Roll Call.**

Invocation and Pledge to the Flag of the United States of America.

**B. Approval of Agenda with Additions and Deletions.**

**C. Awards and Presentations**

1. [Al Downing Tampa Bay Jazz Association Student Performance and Program Update](#)
2. St. Pete's Promise - Lealman Innovation Academy
3. [Lakewood High School Robotics Program Presentation](#)
4. SHINE Community Mural Project Recognition
5. [Planned Parenthood 100 Year Anniversary Proclamation](#)
6. [CASA / Domestic Violence Report](#)
7. [Domestic Violence Awareness Month Proclamation](#)
8. [Fire Prevention Week Proclamation](#)
9. [SPIFFS International Folk Fair Days Proclamation](#)
10. Florida Native Plant Month Proclamation
11. [R'Club's 'Lights on After School Day' Proclamation](#)
12. [SPFestival 16 Update](#)
13. [World Pancreatic Cancer Day Proclamation](#)
14. [LocalShops1 and Shopapalooza Month Proclamation](#)
15. [Florida Manufacturing Month Proclamation](#)

**D. Legal**

1. Announcement of an Attorney-Client Session, pursuant to Florida State Statute 286.011(8) to be held on Thursday, October 20, 2016 at 4:00 p.m., or soon thereafter, in conjunction with the lawsuit styled Michael Berg v. City, OJCC Case No: 15-008989SLR and EEOC Charge No. 511-2016-00119.

2. [Agreement with Kerkering, Barberio & Co. for an Independent Review](#)

**E. Adjournment**

# CITY COUNCIL AGENDA PRESENTATION

**DATE:** September 27, 2016

**TO:** The Honorable Members of City Council

**SUBJECT:** Al Downing Tampa Bay Jazz Association Student Performance and Program Update

**PRESENTER:** Mark Feinman, President, Al Downing Tampa Bay Jazz Association, Inc.

**SCHEDULE FOR COUNCIL ON:**  
October 13, 2016

Steve Kornell  
Council Member

# CITY COUNCIL AGENDA PRESENTATION

**DATE:** September 27, 2016

**TO:** The Honorable Members of City Council

**SUBJECT:** Lakewood High School Robotics Program Presentation

**PRESENTER:** Jason Ness, Robotics Teacher  
Lakewood High School

**SCHEDULE FOR COUNCIL ON:**  
October 13, 2016

Steve Kornell  
Council Member

# **CITY COUNCIL AGENDA PRESENTATION**

**October 3, 2016**

**TO:** The Honorable Members of City Council

**SUBJECT:** *Planned Parenthood 100 Year Anniversary Proclamation*

**PRESENTER:** Mayor, Deputy Mayor, or City Administrator

**SCHEDULE FOR COUNCIL ON:**

Agenda of **OCTOBER 13, 2016**

Rick Kriseman  
Mayor

# CITY COUNCIL AGENDA PRESENTATION

**July 14, 2016**

**TO:** The Honorable Members of City Council

**SUBJECT:** CASA / Domestic Violence Report

**PRESENTER:** Shandra Riffey, Executive Director, CASA

**SCHEDULE FOR COUNCIL ON:**  
Agenda of October 13, 2016

Steve Kornell  
Council Member

Jim Kennedy  
Council Member

# CITY COUNCIL AGENDA PRESENTATION

**August 18, 2016**

**TO:** The Honorable Members of City Council

**SUBJECT:** *Domestic Violence Awareness Month Proclamation for CASA*

**PRESENTER:** Mayor, Deputy Mayor, or City Administrator

**SCHEDULE FOR COUNCIL ON:**

Agenda of **OCTOBER 13, 2016**

Rick Kriseman  
Mayor

# Proclamation

CITY OF ST. PETERSBURG

Rick Kriseman, Mayor

**WHEREAS,** domestic violence is a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over their intimate partner; and

**WHEREAS,** the problems of domestic abuse are not confined to any one group of people, but effect people across all economic status, race, ethnicity, sexual orientation, culture, and society as a whole; and

**WHEREAS,** the crime of domestic violence violates an individual's privacy, dignity, security, and humanity, due to systematic use of physical, emotional, sexual, psychological, and economic control and/or abuse; and

**WHEREAS,** the impact of domestic violence is wide-ranging; and

**WHEREAS,** CASA (Community Action Stops Abuse) has provided support, safety, and advocacy to domestic violence survivors and their children for over 35 years.

**NOW, THEREFORE, I, Rick Kriseman,** Mayor of the City of St. Petersburg, Florida, do hereby proclaim the month of October, 2016 as

## DOMESTIC VIOLENCE AWARENESS MONTH

in St. Petersburg and I urge residents to actively participate in the scheduled activities and programs sponsored by CASA to work toward the elimination of violence against women and children.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the official Seal of the City of St. Petersburg, County of Pinellas, and State of Florida to be affixed this 1<sup>st</sup> day of October, 2016.

A handwritten signature in blue ink, appearing to read 'Rick Kriseman', written over a horizontal line.

Rick Kriseman  
Mayor

# CITY COUNCIL AGENDA PRESENTATION

**August 16, 2016**

**TO:** The Honorable Members of City Council

**SUBJECT:** *Fire Prevention Week Proclamation*

**PRESENTER:** Mayor, Deputy Mayor, or City Administrator

**SCHEDULE FOR COUNCIL ON:**

Agenda of **OCTOBER 13, 2016**

Rick Kriseman  
Mayor

# Proclamation

CITY OF ST. PETERSBURG

Rick Kriseman, Mayor

- WHEREAS,** the city of St. Petersburg is committed to ensuring the safety and security of all those living in and visiting our city; and
- WHEREAS,** fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and
- WHEREAS,** home fires killed 2,745 people in the United States in 2014, according to the National Fire Protection Association (NFPA), and fire departments in the United States responded to 369,500 home fires; and
- WHEREAS,** working smoke alarms cut the risk of dying in reported home fires in half; and
- WHEREAS,** three out of five home fire deaths result from fires in properties without working smoke alarms and in one-fifth of all homes with smoke alarms, none were working; and
- WHEREAS,** many Americans don't know how old the smoke alarms in their homes are, or how often they need to be replaced; and
- WHEREAS,** all smoke alarms should be replaced at least once every ten years; and
- WHEREAS,** the age of a smoke alarm can be determined by the date of its manufacture, which is marked on the back of the smoke alarm; and
- WHEREAS,** St. Petersburg Fire Rescue is dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and
- WHEREAS,** the 2016 Fire Prevention Week theme, "Don't Wait – Check the Date! Replace Smoke Alarms Every 10 Years" effectively serves to educate the public about the vital importance of replacing the smoke alarms in their homes at least every ten years, and to determine the age of their smoke alarms by checking the date of manufacture on the back of the alarms.

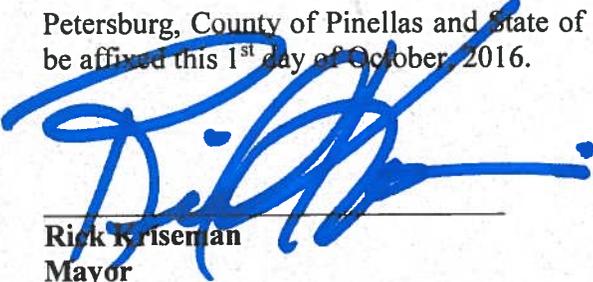
**NOW, THEREFORE, I, Rick Kriseman, Mayor of the City of St. Petersburg, Florida,** do hereby proclaim the week of October 9<sup>th</sup> through 15<sup>th</sup>, 2016 as

## FIRE PREVENTION WEEK

in St. Petersburg and I urge residents to find out how old the smoke alarms in their homes are, to replace them if they're more than ten years old, and to participate in the many public safety activities and efforts of St. Petersburg Fire Rescue during Fire Prevention Week 2016.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the official Seal of the City of St. Petersburg, County of Pinellas and State of Florida to be affixed this 1<sup>st</sup> day of October, 2016.

  
Rick Kriseman  
Mayor

# **CITY COUNCIL AGENDA PRESENTATION**

**September 26, 2016**

**TO:** The Honorable Members of City Council

**SUBJECT:** *SPIFFS International Folk Fair Days Proclamation*

**PRESENTER:** Mayor, Deputy Mayor, or City Administrator

**SCHEDULE FOR COUNCIL ON:**

Agenda of **OCTOBER 13, 2016**

Rick Kriseman  
Mayor

# CITY COUNCIL AGENDA PRESENTATION

**September 29, 2016**

**TO:** The Honorable Members of City Council

**SUBJECT:** *R'Club's 'Lights on After School Day' Proclamation*

**PRESENTER:** Mayor, Deputy Mayor, or City Administrator

**SCHEDULE FOR COUNCIL ON:**

Agenda of **OCTOBER 13, 2016**

Rick Kriseman  
Mayor

# CITY COUNCIL AGENDA PRESENTATION

October 3, 2016

**TO:** The Honorable Members of City Council

**SUBJECT:** SPFestival 16 Update

**PRESENTER:** Scott Brainard

**SCHEDULE FOR COUNCIL ON:**

Agenda of October 13, 2016

# CITY COUNCIL AGENDA PRESENTATION

**October 5, 2016**

**TO:** The Honorable Members of City Council

**SUBJECT:** *World Pancreatic Cancer Day Proclamation*

**PRESENTER:** Mayor, Deputy Mayor, or City Administrator

**SCHEDULE FOR COUNCIL ON:**

Agenda of **OCTOBER 13, 2016**

Rick Kriseman  
Mayor

# CITY COUNCIL AGENDA PRESENTATION

**July 15, 2016**

**TO:** The Honorable Members of City Council

**SUBJECT:** *LocalShops1 and Shopapalooza Month Proclamation*

**PRESENTER:** TBD

**SCHEDULE FOR COUNCIL ON:**  
Agenda of Oct 13, 2016

Rick Kriseman  
Mayor

# Proclamation



*Rick Kriseman, Mayor*

**WHEREAS,** locally owned businesses have long been known as the heart and soul of this city and its neighborhoods. They along with the cultural vibe make this place a unique shopping destination and a big part of why people want to live, work, eat and shop here; and

**WHEREAS,** LocalShops1 is a coalition of hundreds of independently owned businesses and thousands of energized shoppers, with the mission of advocating, promoting and offering support to companies throughout Tampa Bay; and

**WHEREAS,** LocalShops1 recognizes that dollars spent in locally owned businesses have three times the impact on our community as dollars spent at national chains. When shopping locally, you simultaneously create jobs, fund more city services through sales tax, invest in neighborhood improvement and promote community development; and

**WHEREAS,** to further support local businesses, local residents are invited to beat the holiday shopping rush and crowded parking lots by attending the seventh annual SHOPAPALOOZA festival, to be held from 10:00am to sunset on Saturday, November 19, and again on Saturday, November 26, at South Straub Park in St. Petersburg.

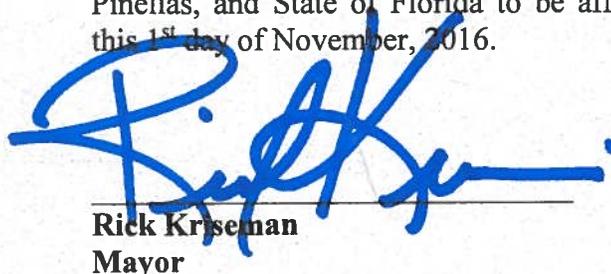
**NOW, THEREFORE, I, Rick Kriseman,** Mayor of the City of St. Petersburg, Florida, do hereby proclaim November 2016, as

## **Buy Local! Eat Local! Live Local! Month**

in St. Petersburg, Florida, and encourage all our residents to shop from local businesses and at the Shopapalooza Festival in South Straub Park, not only this month, but throughout the year.



**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the official Seal of the City of St. Petersburg, County of Pinellas, and State of Florida to be affixed this 1<sup>st</sup> day of November, 2016.



**Rick Kriseman**  
Mayor

# CITY COUNCIL AGENDA PRESENTATION

**September 28, 2016**

**TO:** The Honorable Members of City Council

**SUBJECT:** *Florida Manufacturing Month Proclamation*

**PRESENTER:** Mayor, Deputy Mayor, or City Administrator

**SCHEDULE FOR COUNCIL ON:**

Agenda of **OCTOBER 13, 2016**

Rick Kriseman  
Mayor

Resolution No. \_\_

A RESOLUTION WAIVING ST. PETERSBURG CITY CODE SECTIONS 2-247 AND 2-248; APPROVING AN AGREEMENT BETWEEN THE CITY OF ST. PETERSBURG, FLORIDA AND KERKERING, BARBERIO & CO. ("FIRM") FOR FIRM TO PROVIDE AN INDEPENDENT REVIEW OF THE BROWN & CALDWELL SOUTHWEST WATER RECLAMATION FACILITY WET WEATHER AND LIQUID PROCESS CAPACITY ASSESSMENT DATED JULY 31, 2014 IN AN AMOUNT NOT TO EXCEED \$25,000; AUTHORIZING THE CITY AUDITOR TO EXECUTE THE AGREEMENT WITH FIRM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City Council has determined that it is advisable to hire a firm to provide an independent review related to the Brown & Caldwell Wet Weather and Liquid Process Capacity Assessment dated July 31, 2014 ("Report"); and

WHEREAS, due to the time sensitive nature of this matter and the past performance of Laura Brock as the City's external auditor which includes knowledge of the City's organization and processes, City Council desires to waive the procurement code and engage Kerkering, Barberio & Co. ("Firm"), with Laura Brock assigned as key personnel, to provide an independent review of the Report; and

WHEREAS, City Code Section 2-259 provides that City Council may waive any provision of the procurement code by a resolution receiving at least five (5) affirmative votes; and

WHEREAS, a waiver of St. Petersburg City Code Sections 2-247 and 2-248 is necessary to approve an agreement between the City and Firm for Firm to provide an independent review of the Report in an amount not to exceed \$25,000.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of St. Petersburg, Florida, that St. Petersburg City Code Sections 2-247 and 2-248 are hereby waived for the purpose of entering into the agreement described below.

BE IT FURTHER RESOLVED that the agreement between the City of St. Petersburg, Florida and Kerkering, Barberio & Co. ("Firm") for Firm to provide an independent review of the Brown & Caldwell Southwest Water Reclamation Facility Wet Weather and Liquid Process Capacity Assessment dated July 31, 2014 in an amount not to exceed \$25,000 is hereby approved.

BE IT FURTHER RESOLVED that the City Auditor is authorized to execute the agreement with Firm.

This Resolution shall become effective immediately upon its adoption.

Approved as to Form and Substance:



City Attorney (Designee)  
291775 8-13-16 meeting

## AGREEMENT

**THIS AGREEMENT** ("Agreement") is made and entered into on the \_\_\_\_ day of October, 2016 ("Execution Date"), by and between Kerkering, Barberio & Co. ("Firm"), and the City of St. Petersburg, Florida ("City") (collectively, "Parties").

### WITNESSETH:

**NOW, THEREFORE**, in consideration of the promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Firm Duties.** Consistent with the objectives set forth in Appendix A, Firm shall provide all labor, materials, supervision, tools, equipment, facilities, and travel necessary to provide an independent review ("Review") of (i) the creation, evaluation, and distribution of the Brown & Caldwell Southwest Water Reclamation Facility Wet Weather and Liquid Process Capacity Assessment dated July 31, 2014 ("Report"), and (ii) communications and discussions related to the Report and the use of the Report in decision making. Firm shall conduct the Review in accordance with this Agreement.
2. **Term.** The term of this Agreement shall commence on the Execution Date and terminate upon Firm's completion of the Review and delivery of the report(s) required pursuant to this Agreement, unless earlier terminated as provided herein.
3. **Payment.** Provided Firm faithfully performs its obligations contained in this Agreement, the City hereby agrees to pay Firm at the hourly rates set forth in Appendix B, provided, however the total payment to Firm pursuant to this Agreement shall not exceed twenty five thousand dollars (\$25,000) ("Maximum Contract Price"). All of Firm's out-of-pocket expenses (including but not limited to transportation, hotels and meals) are included in the hourly rates set forth in Appendix B. There shall be no additional charge for any obligations or report(s) required to be performed or provided by Firm pursuant to this Agreement. Firm shall invoice the City upon completion of the Review and delivery of the report(s) and the City shall pay Firm within thirty (30) days of receipt of such invoice (provided Firm is in compliance with the terms and conditions of this Agreement). The hourly rates set forth in Appendix B and the Maximum Contract Price may be increased only in strict accordance with this Agreement.
4. **Reports and Support.**
  - A. Within thirty (30) days of the Execution Date (unless otherwise agreed upon by City Council), Firm shall provide City Council and the Mayor with a written report on the status of the Review. The Firm shall provide such written status report to City Council and the Mayor in a contemporaneous manner. Within forty-five (45) days of the Execution Date (unless otherwise agreed upon by City Council), Firm shall appear before City Council to provide a verbal report on the status of the Review and answer any questions of City Council. At the conclusion of such verbal report, City Council shall determine whether it wishes Firm to continue with the Review. In the event that

City Council approves continuation of the Review and such continuation requires an increase in the Maximum Contract Price, the Parties shall mutually agree upon an amendment to this Agreement.

- B. The City Auditor shall provide logistical support to Firm during the Review. If Firm requires direction on any substantive matters during the Review, Firm shall appear before City Council to request such direction.

**5. Key Personnel.**

- A. Laura Brock shall have primary responsibility for performing the services required pursuant to this Agreement and shall be considered key personnel for purposes of this Agreement.
- B. Firm shall not remove any key personnel from performing the services required pursuant this Agreement; provided, however, that removal of such key personnel due to their incapacity, voluntary termination or termination due to just cause shall not constitute a violation of this paragraph. If any such key personnel are incapacitated, voluntarily terminate their employment, or are terminated for just cause, Firm shall, within five (5) days, replace such personnel with other equally qualified personnel and notify City Council in writing of such replacement.

**6. Indemnification.**

- A. Firm shall defend at its expense, pay on behalf of, hold harmless and indemnify the City, its officers, employees, agents, elected and appointed officials and volunteers (collectively, "Indemnified Parties") from and against any and all claims, demands, liens, liabilities, penalties, fines, fees, judgments, losses and damages (collectively, "Claims"), whether or not a lawsuit is filed, including but not limited to Claims for damage to property or bodily or personal injuries, including death at any time resulting therefrom, sustained by any persons or entities; and costs, expenses and attorney's and experts' fees at trial and on appeal, which Claims are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly:
  - 1) The breach of this Agreement (including any amendments hereto) by Firm, its employees, agents, representatives or subcontractors; or
  - 2) The failure of Firm, its employees, agents, representatives or subcontractors to comply and conform with applicable Laws (as defined herein); or
  - 3) Any negligent act or omission of Firm, its employees, agents, representatives, or subcontractors; or
  - 4) Any reckless or intentional wrongful act or omission of Firm, its employees, agents, representatives, or subcontractors.
- B. The provisions of this paragraph are independent of, and will not be limited by, any

insurance required to be obtained by Firm pursuant to this Agreement or otherwise obtained by Firm, and shall survive the expiration or earlier termination of this Agreement with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

**7. Insurance.**

- A. Firm shall carry the following minimum types and amounts of insurance at its own expense:
- 1) Commercial general liability insurance in an amount of at least one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) aggregate in occurrences form. This policy shall include coverage for (i) personal injury or death or property damage or destruction; (ii) fire legal liability in the minimum amount of One Hundred Thousand Dollars (\$100,000); and (iii) contractual liability under this Agreement.
  - 2) Automobile liability insurance of one million dollars (\$1,000,000) combined single limit covering all owned, hired and non-owned vehicles.
  - 3) Workers' Compensation insurance as required by Florida law and Employers' Liability insurance in an amount of at least one hundred thousand dollars (\$100,000) each accident, one hundred thousand dollars (\$100,000) per employee, and five hundred thousand dollars (\$500,000) for all diseases.
  - 4) Professional liability insurance appropriate to Firm's profession in an amount of at least One Million Dollars (\$1,000,000) per claim. If coverage is on a "Claims Made" basis, it must include the Retro date of coverage.
- B. All of Firm's insurance policies, except Workers' Compensation and Professional liability insurance, shall name the Indemnified Parties as additional insureds.
- C. Firm shall provide the City with notice at least thirty (30) days prior to or within five (5) business days when Firm is notified by insurer of any cancellation, reduction or material change in insurance coverage.
- D. Firm shall provide the City with Certificates of Insurance on a standard ACORD form (or other verification form mutually agreed upon by the Parties) reflecting all required coverage. At the City's request, Firm shall provide copies of current policies with all applicable endorsements.
- E. All insurance required shall be provided by responsible insurers licensed in the State of Florida and rated at least A- in the then current edition of Best's Insurance Guide.

- 8. Notices.** Unless and to the extent otherwise provided in this Agreement, all notices, demands, requests for approval or consent and other communications which are required to be given by

either party to the other shall be in writing and shall be deemed given and delivered on the date delivered in person to the authorized representative of the recipient provided below, upon the expiration of five (5) days following the date mailed by registered or certified mail, postage prepaid, return receipt requested, to the authorized representative of the recipient at the address provided below, or upon the date delivered by overnight courier (signature required) to the authorized representative of the recipient at the address provided below.

**CITY:**

City of St. Petersburg  
175 Fifth Street North  
St. Petersburg, FL 33701-3713  
Attn: Bradley H. Scott, CPA, City Auditor  
Phone: (727) 893-7978  
Email: [Bradley.Scott@stpete.org](mailto:Bradley.Scott@stpete.org)

**FIRM:**

Kerkering, Barberio & Co.  
1990 Main Street, Suite 801  
Sarasota, Florida 34236  
Attn: Laura Brock  
Phone: 941-365-4617  
Email: [LBrock@kbggrp.com](mailto:LBrock@kbggrp.com)

9. **Severability.** Should any paragraph or portion of any paragraph of this Agreement be rendered void, invalid or unenforceable by any court of law for any reason, such determination shall not render void, invalid or unenforceable any other paragraph or portion of this Agreement.
10. **Due Authority.** Each party to this Agreement that is not an individual represents and warrants to the other party that (i) it is a duly organized, qualified and existing entity authorized to do business under the laws of the State of Florida, and (ii) all appropriate authority exists so as to duly authorize the person executing this Agreement to so execute the same and fully bind the party on whose behalf he or she is executing.
11. **Assignment.** Firm shall make no assignment of any of its rights, duties, or obligations under this Agreement without City Council's prior written consent, which consent may be withheld by City Council in its sole and absolute discretion.
12. **Termination.** City Council may terminate this Agreement with or without cause upon five (5) days written notice to Firm. In the event of termination pursuant to this paragraph, the City shall pay Firm for services provided up to the effective date of termination, provided such payment is owed to Firm pursuant to this Agreement.

13. **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida and shall inure to and be binding upon the Parties, their successors and assigns. Venue for any action brought in state court shall be in Pinellas County, St. Petersburg Division. Venue for any action brought in federal court shall be in the Middle District of Florida, Tampa Division, unless a division shall be created in St. Petersburg or Pinellas County, in which case the action shall be brought in that division. The Parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction.
14. **Amendment.** If approved by City Council, this Agreement (including its appendices) may be amended only in writing executed by the Parties.
15. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, whether oral or written, between them.
16. **Compliance With Laws.** Firm shall comply with all applicable federal, state, and local laws, ordinances, rules and regulations, the federal and state constitutions, and orders and decrees of any lawful authorities having jurisdiction over the matter at issue (collectively, "Laws"). Firm shall also comply with applicable City policies and procedures.
17. **Third Party Beneficiary.** No persons other than Firm and the City and their successors and assigns shall have any rights whatsoever under this Agreement.
18. **No Liens.** Firm shall not suffer any liens to be filed against any City property by reason of any work, labor, services or materials performed at or furnished to City property, to Firm, or to anyone using City property through or under Firm. Nothing contained in this Agreement shall be construed as a consent on the part of the City to subject City property or any part thereof to any lien or liability under any Laws.
19. **No Construction Against Preparer of Agreement.** This Agreement has been prepared by the City and reviewed by Firm and its professional advisors. The City, Firm and Firm's professional advisors believe that this Agreement expresses their agreement and that it should not be interpreted in favor of either the City or Firm or against the City or Firm merely because of their efforts in preparing it.
20. **Non-appropriation.** The obligations of the City as to any funding required pursuant to this Agreement shall be limited to an obligation in any given year to budget, appropriate and pay from legally available funds, after monies for essential City services have been budgeted and appropriated, sufficient monies for the funding that is required during that year. Notwithstanding the foregoing, the City shall not be prohibited from pledging any legally available non-ad valorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of the City pursuant to this Agreement.
21. **Captions.** Captions are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

22. **Books and Records.** Firm shall prepare in accordance with generally accepted accounting practice and shall keep, at the address for delivery of notices set forth in this Agreement, accurate books of account. All books and records with respect to this Agreement shall be kept by Firm and shall be open to examination or audit by the City during the term and for the retention periods set forth in the most recent General Records Schedule GS1-SL for State and Local Government Agencies. Nothing herein shall be construed to allow destruction of records that may be required to be retained longer by the statutes of the State of Florida.
23. **Survival.** All obligations and rights of any party arising during or attributable to the period prior to expiration or earlier termination of this Agreement, including but not limited to those obligations and rights related to indemnification, shall survive such expiration or earlier termination.
24. **Force Majeure.** In the event that either party hereto shall be delayed or hindered in or prevented from the performance required hereunder by reason of strikes, lockouts, failure of power, riots, insurrection, war, terrorism, acts of God, or other reason of like nature not the fault of the party delayed in performing services or doing acts ("Permitted Delay"), such party shall be excused for the period of time equivalent to the delay caused by such Permitted Delay. Notwithstanding the foregoing, any extension of time for a Permitted Delay shall be conditioned upon the party seeking an extension of time delivering notice of such Permitted Delay to the other party within ten (10) days of the event causing the Permitted Delay.
25. **No Waiver.** No provision of this Agreement will be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party.
26. **Permits and Licenses.** Firm shall be responsible for obtaining any and all necessary permits, licenses, certifications and approvals which may be required by any government agency in connection with Firm's performance of this Agreement. Upon request of the City, Firm shall provide the City with written evidence of such permits, licenses, certifications and approvals.
27. **Successors and Assigns.** This Agreement shall inure to the benefit of and be enforceable by and against the Parties, their heirs, personal representatives, successors and assigns, including successors by way of reorganization.
28. **Subcontract.** The hiring or use of subcontractors in connection with the performance of Firm's obligations under this Agreement is permitted. Firm shall be solely responsible for ensuring that any subcontractor retained by Firm acts in a manner consistent with and in accordance with the terms and conditions of this Agreement. Firm shall promptly pay all subcontractors. In no event shall Firm's retention of a subcontractor relieve Firm of any of its duties, obligations or representations under this Agreement.
29. **Relationship of Parties.** Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the Parties, it being understood and agreed that nothing

contained herein, nor any acts of the Parties, shall be deemed to create any relationship between the Parties other than the relationship of independent contractors and principals of their own accounts.

30. **Warranties.** Firm warrants that the services required by this Agreement shall be performed by Firm in a professional, fair, impartial and competent manner.

31. **Conflicts.** Firm represents that there are no known personal or business relationships of the Firm or its key personnel or any other circumstances that conflict with Firm's duty to comply with applicable Laws and provide unbiased services to the City. Firm will notify the City in writing if, during the course of providing its services hereunder, there is any change in this disclosure.

32. **Public Records.**

A. Firm shall (i) keep and maintain public records (as defined in Florida's Public Records law) required by the City to perform the services pursuant to this Agreement; (ii) upon request from the City Clerk's Office, provide the City (at no cost to the City) with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided under Florida's Public Records law or other applicable Laws; (iii) ensure that public records in Firm's possession that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by applicable Laws for the term and after the expiration or earlier termination of this Agreement; and (iv) after the expiration or earlier termination of this Agreement, at the City's request, either transfer, at no cost, to the City all public records in Firm's possession within ten (10) days following the City's request and/or keep and maintain any public records required by the City to perform the services pursuant to this Agreement. If Firm transfers all public records to the City upon the expiration or earlier termination of this Agreement, Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Firm keeps and maintains public records upon the expiration or earlier termination of this Agreement, Firm shall meet all applicable requirements for retaining public records in accordance with this Agreement and all applicable Laws. At the City's request, all public records stored electronically by Firm shall be provided to the City in a format approved by the City.

**B. IF FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY CLERK'S OFFICE (THE CUSTODIAN OF PUBLIC RECORDS) AT (727) 893-7448, CITY.CLERK@STPETE.ORG, OR 175 FIFTH ST. N., ST. PETERSBURG FL 33701.**

C. Nothing contained herein shall be construed to affect or limit Firm's obligations including but not limited to Firm's obligations to comply with all other applicable Laws and to maintain books and records pursuant to this Agreement.

33. **Appendices.** Each appendix to this Agreement, including all attachments hereto, is an essential part hereof and is incorporated herein by reference.

34. **Order of Precedence.** In the event of an inconsistency or conflict between or among the documents referenced in this Agreement, the following order of precedence shall govern: (1) this Agreement, exclusive of its appendices and (2) the appendices to this Agreement.

**IN WITNESS WHEREOF** the Parties have caused this Agreement to be executed by their duly authorized representatives on the day and date first above written.

**KERKERING, BARBERIO & CO.:**

**WITNESSES:**

By: \_\_\_\_\_  
(Signature)

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

\_\_\_\_\_  
(Please Print or Type Name)

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

\_\_\_\_\_  
(Title)

**CITY OF ST. PETERSBURG, FLORIDA**

**ATTEST:**

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
City Clerk (Designee)

\_\_\_\_\_  
Bradley Scott, City Auditor

(SEAL)

Approved as to Form and Content:

By: \_\_\_\_\_  
City Attorney (Designee)

291881 Final

## APPENDIX A

### INDEPENDENT REVIEW – BROWN AND CALDWELL REPORT

#### **Brown and Caldwell Report –**

City of St. Petersburg

Southwest Water Reclamation Facility

Wet Weather and Liquid Process Capacity Assessment

July 31, 2014

Firm shall provide all labor, materials, supervision, tools, equipment, facilities, and travel necessary to provide an independent review of (i) the creation, evaluation and distribution of the Brown & Caldwell Southwest Water Reclamation Facility Wet Weather and Liquid Process Capacity Assessment dated July 31, 2014 (“Report”), and (ii) communications and discussions related to the Report and the use of the Report in decision making. Firm’s services shall include but are not limited to performing interviews (with employees at all levels of employment, elected officials, City consultants/contractors and other individuals, to the extent necessary as determined by Firm) and review of pertinent records (including documents, calendars, e-mails, text messages, social media and other communications, to the extent necessary as determined by Firm) to evaluate, form an opinion and report on the following areas:

#### **OBJECTIVES**

1. When was the Report commissioned? By whom? For what reason(s)? Who reviewed the task order for the Report and/or received a copy of the task order? Does anything suggest that the amount of the task order for the Report was kept below \$100,000 to avoid the requirement for City Council approval?
2. When was the Report completed by Brown and Caldwell?
3. Were any drafts of the Report received and/or reviewed by the City and if so by whom? When? Were any changes made to the draft(s) of the Report? If so, when, for what reason(s) and by whom?
4. Who received a final copy of the Report? When was it received? How was it received (e.g., hard copy, via email, etc.)? Who was aware of the Report even if they did not receive a copy of the Report?
5. How high up the City’s management chain was the Report distributed? How high up the City’s management chain was there knowledge of the Report?
6. How was the information contained in the Report evaluated by City staff? What conclusions were reached and decisions made following such evaluation? What if any action was taken in response to the Report?
7. Was the Report transmitted to City Council (either to City Council members directly or through any of City Council’s staff) and if so when and by whom? If not, why not and who made that decision?

8. Was the Report transmitted to the Mayor (either to the Mayor directly or through any of the Mayor's Office staff) and if so when and by whom? If not, why not and who made that decision?
9. Did City consultants/contractors request or receive the Report? If so, why and how was the Report utilized? What if any action was taken in response to the Report?
10. Did regulatory agencies (e.g., DEP) request or receive the Report? If so, why and how was the Report utilized? What if any action was taken in response to the Report?
11. Related to the August 27, 2015 PS&I Committee meeting:
  - Why was the draft task order with Brown and Caldwell for this PS&I Committee meeting changed to remove discussion of and reference to the Report? Who made that decision? Who modified the draft task order? Who prepared the final executed task order? Who was aware of the changes to the draft task order?
  - Who determined the topics to be presented by City staff and consultants/contractors during this PS&I Committee meeting? Were there any telephone conferences, meetings or other communications related to this PS&I Committee meeting? If so, who participated in or was aware of such telephone conferences, meetings or communications?
  - Are there draft or final task orders, agreements or purchase orders for consultants/contractors other than Brown and Caldwell for participation during this PS&I Committee meeting?
  - Is there any other documentation related to this PS&I Committee meeting?
12. Identify the timeline of significant events related to the Report, including but not limited to the date the Report was received by City staff, dates of discussions or other communications related to the Report, dates of task orders and other documents that reference the Report and dates of decisions made related to the Report. Include in this timeline dates of relevant City personnel changes.
13. If during the course of conducting this independent review, Firm discovers any information related to professional best practices in the development of the Report and/or professional standards/codes of conduct related to communicating the findings of the Report to City Council or the Mayor's Office, identify such information.
14. If during the course of conducting this independent review, Firm discovers one or more final reports or studies not included in the list provided by the City (list to be provided by City staff), identify such report(s) and study(ies).
15. If during the course of conducting this independent review, Firm discovers one or more draft reports or studies not included in the list provided by the City (list to be provided by City staff), identify such report(s) and study(ies).

**APPENDIX B  
Hourly Rates**

<b>Shareholder</b>	<b>\$250</b>
<b>Consultant</b>	<b>\$250</b>
<b>IT Consultant</b>	<b>\$150</b>
<b>Senior Accountant</b>	<b>\$150</b>