



# AUDITOR GENERAL

DAVID W. MARTIN, CPA



## DAYTONA BEACH COMMUNITY REDEVELOPMENT AGENCY

### Operational Audit

#### SUMMARY

The Auditor General is authorized by State law to perform independent audits of governmental entities in Florida. Pursuant to Section 11.45(2)(l), Florida Statutes, the Legislative Auditing Committee, at its March 5, 2007, meeting, directed us to conduct an audit of the Daytona Beach Community Redevelopment Agency (CRA). The summary of our findings for the period October 1, 2004, through March 31, 2007, and selected actions taken prior and subsequent thereto, is as follows:

**Finding No. 1:** We noted several expenditures that were either not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Plans.

**Finding No. 2:** CRA Plans were not in sufficient detail to provide for a determination that CRA expenditures were in accordance with the Plans.

**Finding No. 3:** Contrary to Section 163.356(3)(c), Florida Statutes, the City Commission did not designate a Chair and Vice Chair of the CRA Board.

**Finding No. 4:** Contrary to Section 286.011(1), Florida Statutes, the meetings of the CRA Board were not always noticed.

**Finding No. 5:** The minutes, for the jointly held City Commission and CRA Board meetings, did not indicate, for each official action taken, whether the action was by the City Commission or the CRA Board. Additionally, several minutes were not timely approved.

**Finding No. 6:** Although the CRA followed City policies and procedures, the CRA Board did not take formal action to adopt the City's policies and procedures for CRA use.

**Finding No. 7:** The CRA did not always use the appropriate property values to calculate tax increment revenues due from taxing authorities.

**Finding No. 8:** Tax increment revenue contributions by taxing authorities reported in the City's Comprehensive Annual Financial Report differed from the CRA's receipt records.

**Finding No. 9:** Amounts due to the CRA from Volusia County for late tax increment contributions were used to offset amounts due by the City to the County.

**Finding No. 10:** Tax increment revenues received by the CRA were not always timely deposited. Additionally, investment earnings on funds advanced to the City's capital project fund were not recorded to the credit of the CRA.

**Finding No. 11:** Salaries and benefits charged to the CRA trust fund were not always supported by time records or appropriately allocated.

**Finding No. 12:** CRA personnel records did not contain documentation that the educational background of a former redevelopment director was verified.

**Finding No. 13:** Contrary to City policy, severance pay was provided to the former redevelopment director.

**Finding No. 14:** Vehicle allowances and cellular telephone stipends were granted to employees without documentation justifying the amount of the benefits granted.

**Finding No. 15:** Disbursement processing procedures could be improved to ensure that purchases are properly approved, the goods or services are received, and invoices are paid only once to vendors.

**Finding No. 16:** Contributions to other entities were made without the use of written agreements specifying the purpose of the contributions and providing a mechanism whereby the CRA can monitor the use of the moneys. Additionally, CRA Board approval of the contributions was not always documented.

**Finding No. 17:** Real property was acquired without the use of appraisals or the purchase price exceeded the highest appraisal obtained. Additionally, CRA Board approval was not always documented for the purchase of the property.

**Finding No. 18:** Competitive selection procedures could be improved to provide for better recordkeeping. Additionally, the contractor utilized for one CRA project was obtained through another entity even though a bid was received by the City for the CRA project.

**Finding No. 19:** Amounts were billed and paid on contracts for services rendered prior to the date on which the notice to proceed was issued. Contracts did not always require sufficient documentation to be submitted by contractors to provide a basis for payment. Documentation to support one contract amendment and one change order providing for fee increases, and CRA Board approval thereof, could not be provided.

**Finding No. 20:** The City awarded a large contract to a developer, the only respondent to a request for qualifications and proposals (RFQP), notwithstanding the fact that the developer failed to provide key elements in its response to the RFQP.

**Finding No. 21:** The CRA's report of activities for the 2004-05 and 2005-06 fiscal years included only the required financial statements, but did not include nonfinancial information that may be of interest to taxing authorities.

**Finding No. 22:** The City's Internal Auditor reports to management responsible for the activities under review. Additionally, an internal audit of the CRA, issued March 20, 2007, had not been presented to the CRA Board as of July 31, 2007.

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#### BACKGROUND

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Chapter 163, Part III, Florida Statutes, also known as the "Community Redevelopment Act of 1969" (Act), authorizes the creation of a redevelopment agency for the purpose of redeveloping slums and blighted areas that are injurious to the public health, safety, morals, or welfare of the residents of the State. This Chapter

further provides for additional requirements, including, but not limited to, the manner in which such an agency may be established, the powers of the agency, and the funding of the agency. It requires the establishment of a redevelopment trust fund and restricts the use of those funds to redevelopment activities.

Pursuant to the Act, the City of Daytona Beach (City) requested that the Volusia County Board of County Commissioners (County) delegate to the City the right and authority to exercise the power to create a community redevelopment agency. Upon County approval, the City Commission adopted Resolution 81-415, dated December 16, 1981, creating the Daytona Beach Community Redevelopment Agency (CRA). This Resolution also provided for the City Commission to be the Community Redevelopment Agency.

The Act requires the establishment of a CRA Plan and requires approval of the Plan by the CRA's governing body and each taxing authority. Funding for the CRA is accomplished through tax increment revenues provided by each taxing authority, and expenditures of the CRA must be made in accordance with the approved CRA Plan.

The CRA has designated five areas within its boundaries; specifically, Main Street, Downtown, Ballough Road, Midtown (formerly Westside), and South Atlantic. Separate accounting of revenues and expenditures are maintained for each of the five CRA areas. A total of four separate CRA Plans were prepared as follows: (1) the Main Street Redevelopment Area Plan (last amended in 2000), (2) the Downtown-Ballough Road Redevelopment Area Plan (last amended in 2002), (3) the Midtown Redevelopment Area Plan (last amended in 2004), and (4) the South Atlantic Redevelopment Area Plan (created in 2001). Further, three advisory boards were established as follows: (1) for the Main Street and South Atlantic areas, (2) for the Downtown-Ballough Road areas, and (3) for the Midtown area.

Section 163.356(3)(c), Florida Statutes, authorizes a CRA to employ an executive director, technical experts, and other such agents and employees, permanent and temporary, as it requires. Although the CRA is a separate legal entity, the functions and activities of the

CRA are generally carried out by the Redevelopment Services Department of the City of Daytona Beach, which reports to the City Manager (see organizational chart as Appendix A). The positions of redevelopment director, redevelopment technician, two project managers, and an office specialist comprise the Redevelopment Services Department of the City and are fully funded by the CRA. Salaries of other City employees that perform CRA functions and activities on a less-than-full-time basis are prorated and partially paid from CRA funds. Although not formally adopted by the CRA Board, the CRA follows City policies and procedures (see finding No. 6).

## FINDINGS AND RECOMMENDATIONS

### Management of the CRA

#### Finding No. 1: Use of CRA Funds

Section 163.387(1)(a), Florida Statutes, requires funds allocated to, and deposited in, the CRA trust fund to be used to finance or refinance community redevelopment. "Redevelopment" is defined in Section 163.340(9), Florida Statutes, as undertakings, activities, or projects in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight; or for the reduction or prevention of crime; or for the provision of affordable housing, and may include slum clearance and redevelopment in a community redevelopment area; or rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed. Section 163.387(6), Florida Statutes, provides that moneys in the CRA trust fund may be expended for undertakings of the CRA as described in the CRA Plan, including, but not limited to:

- Administrative and overhead expenses necessary or incidental to the implementation of the CRA Plan.
- Expenses of redevelopment planning, surveys, and financial analysis.
- Acquisition costs of real property in the redevelopment area.

- Clearance and preparation costs of the redevelopment area for redevelopment and relocation of site occupants.
- Repayment of principal and interest or any redemption premium for any form of indebtedness.
- Expenses incidental to, or connected with, the issuance, sale, redemption, retirement or purchase of any form of indebtedness, including funding accounts provided for in related ordinances or resolutions authorizing the indebtedness.
- Costs for the development of affordable housing within the community redevelopment area.
- Costs for the development of community policing innovations.

Furthermore, Sections 163.370(3)(a) through (c), Florida Statutes, set forth the prohibited uses of CRA funds, which includes general government operating expenses unrelated to the planning and carrying out of a CRA plan.

***Promotional Expenditures.*** During the audit period, the CRA expended moneys from the CRA trust fund for promotional expenses, such as payments to the promoters of Bike Weeks, Beach Street Barbeque Festival, Bill McCoy Rum Festival, Lalo Kaona Festival, Bayou Boil, and Martini Walk. Amounts expended on promotional activities during the audit period are shown in Table 1.

TABLE 1 CRA Expenditures for Promotional Activities	
CRA Area	Amount
Main Street	\$ 83,439
Downtown	285,317
Ballough Road	0
Midtown	1,445
South Atlantic	0
<b>Total</b>	<b>\$307,201</b>

The South Atlantic and Downtown-Balldough Road CRA Plans specifically prohibit the use of tax increment revenues for promotional expenditures. Although related to objectives set forth in the Main Street CRA Plans, these promotional expenditures do not appear to qualify as “redevelopment” as defined in Section 163.340, Florida Statutes, or satisfy the purposes authorized by Section 163.387(6), Florida Statutes.

**Police-Related Expenditures.** As noted above, certain expenditures, including community policing innovations, are authorized if they are described in the CRA Plan. Although none of the CRA Plans contained community policing innovations, we noted expenditures for the purchase of police vehicles and operating expenses that were recorded in the Main Street and Downtown CRA area accounts. Police vehicles were acquired with CRA funds in October 2004 (five vehicles totaling \$98,055) and March 2007 (four vehicles totaling \$74,468). In response to our inquiry regarding the authority to purchase police vehicles with CRA funds, the Finance Director stated that the vehicles purchased in 2004 were intended for regular City patrols, but were charged to the Main Street CRA area account in error. The Finance Director also stated that five police vehicles (totaling \$99,530) purchased with general fund moneys in 2002 had been used extensively in the redevelopment areas when they were placed in service during January and February 2004. The Finance Director further indicated that a cost adjustment would be made to both the CRA trust fund and the general fund for the differences in vehicle costs for the 2002 and 2004 purchases.

During the 2004-05 fiscal year, \$295,861 was paid for police operating expenditures from the Main Street CRA area account; and for the period October 1, 2006, through March 31, 2007, police operating expenditures of approximately \$170,380 and \$211,954 were paid from the Downtown and the Main Street CRA area accounts, respectively.

Absent the CRA’s Plan including community policing innovations, and the need for the vehicles to implement those innovations, the vehicle purchases and the police-related operating expenditures do not appear to be authorized pursuant to Section 163.387(6), Florida Statutes.

**Other Questioned Expenditures.** The CRA expended \$97,693 for lobbying services, \$82,909 for electric bills for street lights, \$3,208 for food and beverages; \$2,217 for general operating expenses (dues, board member tours, City employee training); and other expenditures totaling \$3,178 that the CRA was unable to justify as appropriate uses of CRA funds. These expenditures do not appear to qualify as “redevelopment” as defined in Section 163.340(9), Florida Statutes, or satisfy the purposes authorized by Section 163.387(6), Florida Statutes. Further, general government operating expenses unrelated to the planning and carrying out of a CRA plan are specifically prohibited by Section 163.370(3)(c), Florida Statutes. Various other expenditures we reviewed that did not appear to be either for purposes of redevelopment or included in the CRA Plans are discussed in subsequent findings (see finding Nos. 9, 11, and 16).

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**Recommendation:** The CRA should request reimbursement from the City for CRA funds that were either not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Plans. In addition, procedures should be adopted to ensure that CRA trust fund expenditures are authorized pursuant to Chapter 163, Part III, Florida Statutes, and CRA Plans.

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#### **Follow-up to Management Response**

*In his response, the Redevelopment Director stated that it is the CRA’s understanding that CRA fund expenditures discussed in the finding were budgeted and used for CRA purposes in accordance with State law and local plans and that applicable statutes provide that CRAs make expenditures to further the goals of adopted redevelopment plans. He also stated that it is the CRA’s understanding that the use of redevelopment funds for promotional expenditures are allowable if they are consistent with the policies of a CRA plan and quoted policies from the Downtown/Balldough Road CRA plan that “encourage” or “support” development, promotion, and improvements in the redevelopment area.*

*Local governments that have not been afforded home rule powers, such as community redevelopment agencies, possess only those powers specifically granted in law. Therefore, the CRA must demonstrate specific authority in law to incur expenditures.*



*The Redevelopment Director has not identified any specific legal authority for promotional expenditures from funds restricted to redevelopment. While we agree that CRA expenditures are required to be in accordance with redevelopment plans, such expenditures are limited to redevelopment activities (as defined by law), and general government operating expenses unrelated to planning and carrying out redevelopment plans are specifically prohibited by law. Therefore, the CRA could not legitimize the use of CRA moneys for promotional expenditures through inclusion of such expenditures in its CRA plan or in its budget.*

#### **Finding No. 2: Contents of CRA Plans**

Section 163.362, Florida Statutes, provides requirements for the contents of community redevelopment plans (CRA plans). However, the requirements regarding the contents of CRA plans vary widely depending on when a CRA approved and adopted its CRA Plan. Pursuant to Chapter 84-356, Laws of Florida, CRAs created after June 25, 1984, are required to provide detailed CRA plans, including the projects that will be undertaken, the financing of those projects, and time frames. Since the Daytona Beach CRA was created in 1981, and had an approved and adopted CRA plan as of June 25, 1984, it is not required to provide the level of detail required of newer CRAs. The Daytona Beach CRA Plans present varying degrees of specificity as to what projects will be accomplished in the CRA redevelopment effort within a designated area. Most contain some general objectives that are vague regarding the method of accomplishment and very few specific projects with long range accomplishment dates (e.g., within the next 10 years).

In response to several of our inquiries regarding the statutory authority or inclusion in the CRA Plans for various expenditures, the CRA indicated that it was not required by the Community Redevelopment Act to be specific in its CRA Plans as to the projects it will undertake or how CRA moneys will be spent. The CRA stated that the Act “confers upon the City broad authority to take various actions that ‘are necessary or convenient’ to carry out the Act’s objectives.”

In response to our request for the reference in the CRA Plans providing for community policing innovations to support expenditures for the acquisition of police cars

and operating expenses (see discussion in finding No. 1), the Redevelopment Director indicated that the Main Street CRA Plan contains an objective for “the stimulation and attraction of private investment in the redevelopment area” and that “the Plan identifies the high incidence of personal and property crimes, drugs, and prostitution as factors that discourage private investment.” The Redevelopment Director also indicated similar justifications regarding the Downtown-Balldough Road CRA Plan.

While the Act does not require the specificity of project details for those CRAs created before 1984, the CRA is bound by Section 163.387(6), Florida Statutes, which requires any expenditures from the CRA trust fund to be in accordance with that which is described in the CRA Plans. Therefore, CRA Plans should describe in sufficient detail the intended projects and expenditures. As a result of insufficient descriptions in the CRA Plans regarding the specific projects contemplated to accomplish redevelopment in the CRA areas, we determined that several expenditures did not appear to be authorized in the CRA Plans, as noted in finding No. 1.

**Recommendation:** The CRA should revise its CRA Plans to include sufficient detail to demonstrate that expenditures of CRA funds are in accordance with Section 163.387(6), Florida Statutes. Such details would also serve to provide additional information to the taxing authorities required to contribute to the CRA and the public as to the intentions of the CRA and how it will accomplish its redevelopment objectives.

#### **Finding No. 3: Appointment of CRA Chair and Vice Chair**

Section 163.356(3)(c), Florida Statutes, provides that the governing body of the municipality shall designate a CRA Chair and Vice Chair from among the commissioners. In Attorney General Opinion No. 91-49, the Florida Attorney General stated, “I find no provision in Part III, Chapter 163, F.S., which authorizes or otherwise empowers the automatic assumption of the chairmanship by the mayor.” The opinion further provided “that the city commission must designate the

chairman and vice chairman... regardless of whether the commission has designated itself as the community redevelopment agency.”

Although requested, we were not provided documentation of the CRA Chair and Vice Chair designations being made pursuant to Section 163.356(3)(c), Florida Statutes, for the period October 1, 2004, through March 31, 2007.

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**Recommendation:** The City Commission should designate the CRA Chair and Vice Chair as required by Section 163.356(3)(c), Florida Statutes, and document such designation in the meeting minutes of the governing board.

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#### **Finding No. 4: Public Notice of Meetings**

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Pursuant to Section 286.011(1), Florida Statutes, all meetings of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings. Additionally, Section 163.357(1)(a), Florida Statutes, provides that the governing body may, at the time of adoption of a resolution under Section 163.355, Florida Statutes, or at any time thereafter by adoption of a resolution, declare itself to be an agency, in which case all the rights, powers, duties, privileges, and immunities vested by this part in an agency will be vested in the governing body of the county or municipality, subject to all responsibilities and liabilities imposed or incurred. Section 163.357(1)(b), Florida Statutes, further states that the members of the governing body shall be members of the agency, but such members constitute the head of a legal entity, separate, distinct, and independent from the governing body of the county or municipality.

As the City Commission has declared itself to be the governing body of the CRA pursuant to Section 163.357, Florida Statutes, the meetings during which actions related to the CRA were to be taken were required to be publicly noticed. As further discussed in finding No. 5,

generally a single meeting is held for both City and CRA business. Our review of the City/CRA meeting minutes disclosed that during 56 of 60 meetings held during the period October 1, 2004, through March 31, 2007, CRA business was discussed. Our review of the public notices for 21 of these meetings revealed 20 instances where CRA actions were taken, but the meeting notice only indicated that the meeting was of the City Commission and, as a result, the meeting of the CRA Board was not noticed.

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**Recommendation:** The City Commission meetings that will include CRA business discussions should be properly noticed as both City Commission and CRA Board meetings, or the CRA Board meetings should be separately noticed and held.

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#### **Finding No. 5: CRA Board Meeting Minutes**

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Section 286.011, Florida Statutes, provides that the minutes of a meeting of any board or commission of any authority of any county, municipal corporation, or political subdivision shall be promptly recorded, and such records shall be open to public inspection.

Our review of the minutes of the City Commission meetings disclosed that on most occasions a single meeting served as meetings of both the City Commission and the CRA Board, and only one set of minutes comprising all actions for both entities was prepared and labeled as minutes of the City Commission. Our review of the minutes of the meetings held jointly by the City and the CRA disclosed the following:

- The minutes did not indicate, for each official action taken, whether the action was by the City Commission or the CRA Board. Although both entities are governed by the same individuals, identifying which governing body took action may be critical in determining compliance with law as there are some actions that can be taken by a municipality, but not by a CRA, and vice versa. For example, as noted by the Attorney General in Opinion No. 2001-30, a CRA is authorized to loan moneys to a private business for start-up costs

within the CRA area, whereas a municipality would not be authorized to make such a loan directly to a private business.

- Several minutes that included CRA business were not timely approved. Pursuant to Article IV, Section 7 of the City Charter, the City Commission must meet at least twice each month. While Section 286.011(2), Florida Statutes, does not specify a time period in which minutes should be approved, for our purposes, we considered approval of transcribed minutes within 30 days to be prompt. Our review disclosed that between October 1, 2004, and March 31, 2007, 43 of 56 jointly held meeting minutes that were approved of record were not timely approved by the City Commission or CRA Board. All of the untimely approvals noted occurred prior to January 2007. The untimely approvals ranged from 35 to 477 days after the meeting date.

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**Recommendation:** For jointly held meetings of the City Commission and the CRA Board, a clear distinction should be made in the meeting minutes as to which governing body is taking action. Also, the CRA should ensure that all meeting minutes are transcribed, reviewed, corrected if necessary, and approved by the CRA Board in a timely manner.

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#### **Finding No. 6: Policies and Procedures**

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As stated in the Background, CRA functions and activities were conducted by City employees following City policies and procedures. However, the CRA Board did not take formal action to adopt the City's policies and procedures for the CRA. Since the CRA is a separate legal entity, the CRA Board should either formally adopt the City's policies and procedures or adopt other unique policies and procedures.

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**Recommendation:** The CRA Board should formally adopt policies and procedures for the CRA.

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### Revenues and Cash Receipts

#### **Finding No. 7: Tax Increment Funding**

Pursuant to Section 163.387(1)(a), Florida Statutes, the annual tax increment funding contribution to be paid to the CRA trust fund by the taxing authorities is equal to, with certain exceptions, 95 percent of the difference between: (1) ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area, and (2) the ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total assessed value of the taxable real property in the community redevelopment area prior to the creation of the CRA.

The CRA calculates and invoices each taxing authority for the annual tax increment funding. However, during the audit period, the tax increment contribution to be received from the Downtown Development Authority (DDA) was incorrectly calculated, as noted below:

For the 2004 tax year (2004-05 fiscal year), the CRA used the preliminary property value of \$97,461,075, which, according to the Finance Director's response to our inquiry, was obtained via telephone from the County Property Appraiser's Office, and no documentation was received from the Property Appraiser to support the amount. The final assessed value of real property reported by the Property Appraiser for the DDA totaled \$98,700,210, resulting in a tax increment underpayment of \$1,722 from the DDA.

The calculation for the 2006 tax year (2006-07 fiscal year) was performed using a property value totaling \$171,452,572, which included personal property, rather than the real property value of \$122,229,136. As a result, the DDA contributed an additional \$46,762 to the CRA trust fund. Subsequently, the CRA made a transfer during the 2006-07 fiscal year to the DDA, which included a refund of the overpayment (see finding No. 16).

**Recommendation:** The CRA should implement procedures to ensure the correct real property values are used in determining the tax increment funding.

**Follow-up to Management Response**

*In his response, the Redevelopment Director indicated that the instances of errors in calculating tax increment revenues were addressed immediately after the clerical error was discovered. However, other than the transfer of funds discussed in finding No. 16, he did not provide documentation to support the correction of the errors. The Redevelopment Director did, however, indicate that procedures have been implemented to ensure that correct real property values are used in the future.*

**Finding No. 8: Reporting Taxing Authority Contributions**

The City reports the CRA trust fund as a special revenue fund in its Comprehensive Annual Financial Report (CAFR). The CAFR issued for the fiscal year ending September 30, 2006, included a schedule of the tax increment funding contributions to the CRA trust fund made by each taxing authority. However, a comparison of the CRA receipt records from each taxing authority with the tax increment funding contributions reported in the City's CAFR disclosed differences as shown in Table 2:

TABLE 2 Tax Increment Funding Contributions For the Fiscal Year Ended September 30, 2006			
Taxing Authority	Amount per CRA Receipt Records	Amount per City's CAFR	Difference
City of Daytona Beach	\$4,279,200	\$4,464,509	\$185,309
Volusia County	3,383,631	3,338,562	(45,069)
East Volusia Mosquito Control	151,945	149,923	(2,022)
Volusia Echo	127,685	125,982	(1,703)
Volusia Forever	109,490	-0-	(109,490)
Ponce DeLeon Inlet & Port District	57,459	56,691	(768)
Halifax Hospital Medical Center	1,915,262	1,889,750	(25,512)
Daytona Beach Downtown Development Authority	58,010	57,262	(748)
<b>Total</b>	<b>\$10,082,682</b>	<b>\$10,082,679</b>	<b>\$ 3</b>

Although requested, we were not provided an explanation as to the differences in the amounts received by the CRA and the amounts reported for each taxing authority in the City's CAFR.

**Recommendation:** The CRA should consult with City staff to ensure that the amounts received from the taxing authorities are correctly reported in the City's CAFR.

**Finding No. 9: Late Tax Increment Payments**

As noted in our report No. 2006-186, finding No. 1, tax increment funding received by the CRA from Volusia County (County) for the 2003 tax year was received eight days late, and the CRA had not assessed the additional five percent (\$104,525) and interest (\$4,720), totaling



\$109,245, as required under Section 163.387, Florida Statutes (2003).

In response to our audit, in June 2006, the CRA submitted an invoice to the County for the additional five percent (\$104,525), but not the interest. The County remitted a check in the amount of \$907 for lost interest that the County contended the CRA would have earned had the payment been received by January 1. The CRA indicated it could not accept the County's \$907 check as a settlement for the additional five percent and interest. Subsequent correspondence between the CRA and the County resulted in an agreement that the additional five percent and interest assessed to the County would offset the costs, totaling \$125,000, that the County was owed by the City for events (Bike Weeks, Black College Reunion, Cheerleading Competitions, among others) held during the 2005-06 and 2006-07 fiscal years, at the County-owned Ocean Center, which is located within the Main Street CRA area. However, Section 163.370(3)(c), Florida Statutes, prohibits the use of tax increment revenues to pay for general government operating expenses unrelated to the planning and carrying out of the CRA Plan. Accordingly, the agreement between the CRA and the County, whereby the additional five percent and interest to be deposited to the CRA trust fund were used to offset the City's operating expenses for the use of the County-owned facility, is not authorized by law.

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**Recommendation:** The City should reimburse the CRA trust fund for the amount of the additional five percent and interest totaling \$109,245.

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#### Follow-up to Management Response

*In his response, the Redevelopment Director indicated that the County provided services to the CRA in the amount of \$125,429.88. However, he did not provide supporting documentation for the services provided to the CRA. As noted in our finding, the amounts used to offset tax increment revenues were for City events, not CRA services.*

#### **Finding No. 10: Investment of CRA Funds**

Our review of the annual tax increment funding contributions received from the taxing authorities disclosed that the 2005 tax year contribution received

from the Halifax Hospital Medical Center, totaling \$1,915,262, was held by the City for 12 days prior to deposit. CRA records indicated the payment was received on December 16, 2005, and processed by the Central Cashier on December 23, 2005, but the check was not deposited into the bank account until December 28, 2005. The untimely deposit of receipts increases the risk of loss or misappropriation of CRA assets and a loss of interest earnings. Based upon the State Board of Administration's Local Government Surplus Funds Trust Fund interest rate of 4.19 percent paid in December 2005, this untimely deposit resulted in lost interest earnings of approximately \$2,600.

Additionally, CRA funds were transferred to the City's capital projects fund during the 2002-03 and 2003-04 fiscal years in the amount of \$600,000 each fiscal year. In response to our inquiry regarding the uses of the \$1,200,000, City personnel stated that the funds were advanced for CRA projects. During the 2003-04, 2004-05, 2005-06, and 2006-07 fiscal years, approximately \$1,006,704 was expended on the Main Street streetscape project. However, during that time, interest earnings on the advanced funds was not recorded in the capital projects fund or otherwise identified as moneys to be used for CRA projects. Had the advanced funds been invested with the State Board of Administration's Local Government Surplus Funds Trust Fund, interest earnings would have been approximately \$79,500.

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**Recommendation:** The CRA should strengthen its receipt depositing procedures to ensure that deposits are made timely to reduce the risk of loss and maximize interest earnings. Also, the CRA should either submit an invoice to the City for the interest earnings on funds held in the City's capital projects fund or ensure that interest earned on these funds are credited to the capital projects fund and used only on CRA projects.

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<p align="center"><b>Payroll and Personnel Administration</b></p>
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#### **Finding No. 11: CRA Salary Expenses**

The positions of redevelopment director, redevelopment technician, two project managers, and an office

specialist, that comprise the Redevelopment Services Department, were paid by the CRA trust fund. During the 2004-05 and 2005-06 fiscal years, the salary expenses for these positions were allocated to each of the redevelopment area accounts based upon a predetermined percentage. Also during this period, certain City personnel, including code enforcement officers, Development Services personnel, police officers (2004-05 fiscal year), City Attorney personnel, and Public Works employees had all or part of their salary expenses charged to the CRA trust fund without records documenting the time spent on CRA or City activities. Consequently, the CRA could not document that all salary expenses charged to the CRA trust fund were related to CRA activities.

The City changed its policy for the 2006-07 fiscal year whereby the Redevelopment Services Department employee salaries were charged to the Downtown CRA area, and other City personnel were required to document the time spent on CRA activities. However, three Public Works positions and up to five code enforcement officers were paid \$57,978 and \$152,310, respectively, in salary expenses that were funded with CRA trust fund moneys, and records were not maintained to document the actual time worked on CRA or City activities. Additionally, various police officer salary expenses, totaling \$373,261, were funded with CRA trust fund moneys from the Downtown and Main Street CRA area accounts (see further discussion in finding No. 1). We were informed by code enforcement officers that their assigned enforcement areas are larger than the specific redevelopment area included in their assigned area. While their work involves City and CRA activities, their entire salary expenses were paid with the CRA trust fund moneys. Records maintained by the code enforcement officers adequately document the locations of their activities, and, if utilized effectively, could provide the basis for the allocation of their salaries. We also noted that during the 2006-07 fiscal year, the Finance Department personnel charged time to the CRA, resulting in salaries totaling \$36,368 being charged to the CRA trust fund through March 31, 2007; however, records were not maintained to document the CRA activity involved.

Furthermore, during the 2005-06 fiscal year, CRA funds in the amount of \$171,871 were transferred to the City's general fund. In response to our inquiry, the Finance Director provided a memorandum from the Cultural Services Administrator stating that the funds were used to pay for additional City staff positions that had been approved by City management. The memorandum further stated that these positions were responsible for CRA activities at the Oceanfront Bandshell, Peabody Auditorium, and Beach Street locations. However, the memorandum did not provide the extent to which the positions were working on CRA, as opposed to City, activities.

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**Recommendation:** Procedures should be implemented to ensure that actual time spent by employees on CRA activities is supported by documentation, such as timesheets, and that such documentation supports salaries and benefits paid by the CRA trust fund.

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#### Follow-up to Management Response

*In his response, the Redevelopment Director indicated that the City concurred with the recommendation provided in the previous audit of the CRA and implemented a process where only actual time spent is charged to the CRA funds. Although a process was implemented to require time records that document the amounts charged to the CRA for employee salaries and benefits, as noted in our finding, such records were not always maintained and did not always represent actual time spent on CRA activities (e.g., code enforcement officers).*

#### **Finding No. 12: Qualification of New Hires**

Section 70-28(a) of the City's Code of Ordinances states that all applicants for classified or exempt positions must submit a completed application form and proof of meeting the qualifications specified for the position classification. In addition, Section 70-61 of the City's Code of Ordinances provides for the City Manager to approve, maintain, and modify, as appropriate, a position classification plan for all positions of employment in the City, and have job descriptions for each position, which include, but are not limited to, required knowledge, skills and abilities and required training and experience.

Our test of four new hires for the positions of redevelopment director, project manager, and office specialist within the Redevelopment Services Department disclosed that the personnel records did not contain documentation that the educational background of a former redevelopment director, hired on March 21, 2005, was verified. Absent such verification of a job candidate's educational background, the CRA would be unable to determine whether the candidate had the educational qualifications required for the position sought.

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**Recommendation:** CRA procedures should be developed and implemented to verify potential employees' educational background prior to offering employment. Also, documentation of the verification process should be maintained.

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**Finding No. 13: Severance Pay**

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Section 70-122(e) of the City's Code of Ordinances provides that an exempt employee whose employment is terminated without cause by the City Commission or City Manager shall receive severance pay in an amount equal to one month of the employee's salary at the time of termination for each year of service, up to a maximum amount equal to 60 work days of salary.

The former redevelopment director submitted a letter of resignation with an effective date of April 28, 2006. Since this was a resignation, and not a termination, the former redevelopment director was not eligible for severance pay pursuant to City policy. However, the former redevelopment director remained on the CRA payroll through the July 22, 2006, pay period. As a result, the former redevelopment director was paid, or received benefits, from the CRA trust fund totaling \$28,433, for the following:

- Salary for 60 days totaling \$25,690, which included 58 days of administrative time (\$24,850) and 2 holidays (\$840) that occurred after the termination date.
- Vehicle allowances and cellular telephone stipends, totaling \$1,300 and \$237, respectively, for the pay periods May 6, 2006, through July 22, 2006.

- Group life insurance premiums totaling \$16.
- Personal leave payout of \$840 due to the accruing of additional hours per month for three months after the April 2006 termination date.
- Employee appreciation payment (one day's leave granted to employees on their employment anniversary date) of \$350 was paid during the June 26, 2006, pay period. The City's policy requires the employee to use the employee appreciation day as leave on the anniversary date of the employee's hiring, with certain exceptions. The policy also requires that the leave be taken prior to the fiscal year end. However, the policy does not indicate that the employee may be paid in lieu of using it as leave.

We also requested documentation for any additional employer-paid benefits during the severance period, such as health and dental insurance and retirement contributions. The Human Resources Director indicated that the exact amounts could not be confirmed.

In response to our inquiry regarding the authority to pay these amounts to the former redevelopment director and our request for the CRA Board minutes approving these payments, we were provided a copy of Section 70-122 of the Employee Manual, which reiterates the City's Code of Ordinances. We were not provided the CRA meeting minutes authorizing these payments.

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**Recommendation:** CRA procedures should be strengthened to ensure that severance pay is granted and calculated in accordance with the City's Code of Ordinances and CRA policy in effect at the time. Also, the CRA should seek repayment of the excess funds from the former redevelopment director.

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**Follow-up to Management Response**

*In his response, the Redevelopment Director stated that the payment of the severance pay is in accordance with personnel practices. However, the Redevelopment Director did not indicate how the payment of severance pay to an employee who resigns is in accordance with a City policy that allows for severance pay only when employment is terminated without cause.*

**Finding No. 14: Fringe Benefits**

Prior to the 2006-07 fiscal year, employee salaries and benefits that were partially allocated to the CRA trust fund were allocated based on percentage of work, which was not documented by time records. Beginning in the 2006-07 fiscal year, salaries were allocated to the CRA trust fund based on actual time recorded as CRA activities, but benefits were not allocated to the CRA trust fund. For employees fully funded by the CRA, both salaries and benefits were charged to the CRA trust fund.

**Vehicle Allowances.** City Management Policy No. 18 provides guidance on the use of City-owned vehicles and for employees receiving a weekly vehicle allowance. City Management Policy No. 18, Section C.4., states, “Employees who use their private vehicles every day in the pursuit of their official duties may be paid a flat rate car allowance. Final approval must be obtained from the City Manager.”

Our review of expenditures disclosed that vehicle allowances totaling \$46,060 were paid to 24 employees from the CRA trust fund. Although requested, we were not provided documentation to support the basis for the amount of vehicle allowances paid to the employees. In response to our request for documentation, we were provided a copy of the policy noted above, and the Finance Director stated that “the auto allowances are approved via the City Commission during the annual budget and are under the purview of the City Manager.”

**Cellular Telephone Stipends.** City Management Policy No. 70, provides the granting to an employee a weekly cellular telephone stipend, based upon the determination by the director of the employee’s department that the employee’s productivity and efficiency can benefit from its use. The Policy further states that the Department Director, at least once a year, shall confirm that the employees receiving a cellular telephone stipend are maintaining acceptable service and the employees’ cellular telephone numbers must be provided to their supervisors.

Our review of expenditures disclosed that cellular telephone stipends totaling \$2,679 had been paid to 13

employees from the CRA trust fund. In response to our request for documentation establishing the stipend amount for eight employees receiving weekly stipends ranging from \$1.56 to \$18.23, the Finance Director provided a copy of the above-noted policy and stated “the cell phone stipends are approved via the City Commission during the annual budget and are under the purview of the City Manager.” Absent documentation of management review of the employee’s business and personal use of their cellular telephone, the CRA cannot ensure that the cellular telephone stipend is a necessary and reasonable expense for conducting CRA business.

Since CRA trust fund moneys are restricted to specified uses, any fringe benefits charged to the CRA trust fund must be documented by records supporting the amount charged as being a reasonable expense for conducting CRA business. Examples include an employee’s certification and documentation of the average weekly miles driven or average cellular telephone minutes expended for CRA business purposes.

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**Recommendation:** The CRA should adopt a policy that ensures that vehicle allowances and cellular telephone stipends paid from the CRA trust fund are based upon reasonable documentation supporting the business use for CRA purposes.

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**Follow-up to Management Response**

*In his response, the Redevelopment Director stated that the City already has a standard management policy for vehicle allowances and telephone stipends. However, the point of our finding is that vehicle allowances should be supported by documentation that justifies the amount of the allowance granted and the amount allocated to the CRA, and cellular telephone stipends should be supported by documentation that justifies the business use and the amount allocated to the CRA.*

**Procurement of Goods and Services**
**Finding No. 15: Disbursements Processing**

Our test of 28 CRA trust fund expenditures disclosed the following in the CRA’s disbursement processing procedures that may limit the CRA’s ability to ensure that goods and services are received in the quantity and quality contemplated by management’s authorization:



- In five instances, for purchases ranging from \$153 to \$2,997, a requisition was not prepared or had not been properly approved prior to the ordering of the goods and services. Requisitions were required for all purchases except procurement card purchases (up to \$300) or for “field order” purchases (up to \$100) and none of the five instances were procurement card or field order purchases below the established limits. Of these five instances, one involved the requestor approving the requisition to initiate the purchase order and, in the other four instances, a requisition had not been prepared, therefore, a purchase order was not issued. We also noted two instances, involving purchases totaling \$1,565 for light fixtures and \$7,910 for landscape maintenance services, in which a purchase order was issued after the invoice date for the goods and services. Purchase orders serve to document management’s authorization to acquire goods and services, and the specifications and prices of 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.
- In 21 instances, supporting documentation for payments to vendors lacked a signature and date evidencing that goods and services were received, inspected, and approved by an appropriate employee. While City procedures required the department receiving the goods or services to record the receiving information in the purchasing system, a record of this information was not maintained. Signatures from appropriate personnel are necessary to ensure that the goods and services ordered have been received and are in good order. Dates that goods or services were received are also necessary for a proper reporting of accounts payable in the financial statements 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 governmental entities.

- For all 28 expenditures tested, invoices supporting payments were not properly canceled or stamped as paid after payment. Failure to cancel invoices increases the risk of duplicate payments.

The absence of adequate supporting documentation, including properly approved purchase orders and evidence that goods and services have been received, increases the CRA’s risk of paying for unsubstantiated or improper expenditures.

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**Recommendation:** The CRA should ensure that requisitions and purchase orders are used to document the approval of purchases prior to incurring an obligation for payment. Additionally, the CRA should ensure that expenditure documentation includes evidence that goods and services were received and approved by authorized personnel, that a proper pre-audit of supporting documentation is conducted prior to payment, and that invoices are canceled when paid.

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<b>Contractual Services</b>
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**Finding No. 16: Contributions to Other Entities**

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Our review disclosed instances in which the CRA paid moneys to other entities without the benefit of a written agreement detailing the purposes of the remittances, the benefit provided to the CRA, and provisions providing a mechanism whereby the CRA could monitor the use of those moneys. Specifically, we noted the following:

**Downtown Development Authority.** The City created the Downtown Development Authority (DDA) pursuant to Section 5, Sub-part E of the City Charter for Daytona Beach. The DDA is a taxing authority for tax increment funding purposes for the CRA, as noted in finding No. 7.

According to the CRA’s records, payments from the Downtown CRA area account were made to the DDA and recorded as “Payment to Component Unit” for the 2004-05, 2005-06, and 2006-07 fiscal years in the amounts of \$52,653, \$58,010, and \$126,445, respectively. In response to our request for documentation evidencing the purposes for the transfers and the CRA Board approval for these transfers, the Finance Director

stated that the City Commission approved the transfers by adopting the budget. Another response from the Finance Director indicated that a portion of the transfer to the DDA made during the 2006-07 fiscal year was attributed to the excess DDA tax increment funding contribution made for the 2006 tax year (see finding No. 7). We were not, however, provided documentation of the proposed uses of the remaining funds or an agreement between the CRA and the DDA. Absent such documentation, the CRA has not established that the funds were used in accordance with the CRA Plan or authorized statutory uses.

**Nonprofit Entity.** According to Attorney General Opinion No. 79-56, the Supreme Court has held that a governmental entity may use a nonprofit corporation as a medium to accomplish a public purpose provided that certain conditions are met. First, there must be a clearly identified and concrete public purpose as the primary objective and a reasonable expectation that such purpose will be substantially and effectively accomplished. Also, the governmental entity must retain sufficient control over the use of the public funds by the nonprofit corporation to assure accomplishment of the public purpose.

Our review disclosed payments totaling \$50,000 to a cemetery (a nonprofit entity) without clearly identifying the public purpose as the primary objective, or exercising the necessary control to ensure that the moneys contributed benefited the CRA. Although requested, we were not provided a written agreement describing the purposes for which the moneys were contributed or a mechanism whereby the CRA was assured that the moneys were expended by the nonprofit as intended. According to minutes of a CRA advisory board meeting, the cemetery requested funds to pay for repairs and renovation of its grounds. However, procedures were not performed by the CRA to determine the ultimate use of those moneys.

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**Recommendation:** The CRA should utilize written agreements, including appropriate monitoring provisions, to document the authorized uses of CRA moneys transferred to other governmental and nonprofit entities, and conduct periodic reviews of the entities' records to ensure moneys were used as agreed.

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#### **Finding No. 17: Property Acquisitions**

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In August, September, and October 2003, five parcels of real property were purchased for \$5,133,000 and a City-owned vacant lot for use in the Boardwalk Mixed-use CRA project (see further discussion in finding No. 20). Although the properties were titled in the City's name, the properties were purchased with CRA moneys.

In connection with these purchases, we noted the following:

- For one parcel purchased, the highest appraised value was \$1,160,000; however, the purchase price included the \$1,160,000 plus a vacant lot, which the closing statement indicated was worth \$400,000. Neither the City nor the CRA acquired an appraisal for the vacant property. For another parcel, the purchase price exceeded the highest appraised value by a total of \$171,000. The parcel was appraised at \$490,000 and purchased for \$661,000. Although requested, we were not provided justification for the acquisition price that exceeded the appraised values.
- In addition to purchasing parcels of real property, leasehold interests associated with two of the parcels were purchased for \$425,000 and \$377,000. A leasehold value of \$225,000 was determined by one of the appraisal firms for the leasehold interest purchased for \$425,000. No leasehold value was obtained for the leasehold interest purchased for \$377,000. Although requested, we were not provided with an explanation or justification as to why more was paid than the amount valued for the first parcel or why an appraised value was not obtained for the second parcel.
- Section 30-81 of the City's Code of Ordinances requires all expenditures exceeding \$25,000, including expenditures for real property, to be

authorized and directed by resolution of the City Commission, and the contract approved by the City Manager and the City Commission. Although requested, we were not provided with documentation evidencing the City Commission's or CRA Board's approval for the purchase of four of the parcels.

Good business practices suggest that appraisals be obtained for any real estate transactions and that the justifications for any purchases that exceed appraised values be documented. Furthermore, review and approval by the CRA Board prior to expenditure of CRA moneys is essential in ensuring that the CRA Board's intentions are met, and approval by the City Commission is required by the City's Code of Ordinances.

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**Recommendation:** The CRA should implement procedures to ensure that appraisals are obtained prior to purchasing property, justifications for paying more than appraised values are documented, and CRA Board and City Commission approval is obtained prior to the purchase of property.

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#### **Finding No. 18: Competitive Selection Procedures**

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Our review disclosed several instances in which the CRA did not always follow good business practices or comply with applicable regulations when procuring contracts for CRA projects, as noted below.

- The CRA did not maintain date and time stamped bid envelopes as part of its standard operating procedures. As such, the CRA could not demonstrate that the bids considered, and the bid awarded, were received by the bid closing date.
- The CRA did not maintain documentation signed by those individuals in attendance at bid openings as part of its standard operating procedures. A record of witnesses for the bid opening could help demonstrate fair and open competition in the procurement process.
- The City advertised for construction manager/general contracting services for the Ora Park CRA project. Although one bid, in the amount

of \$710,463, was received for the project, the CRA utilized another contractor through a "piggyback" contract from the City of Ormond Beach, a nearby municipality, costing the CRA \$884,196. As a result, the CRA paid \$173,733 more by using the piggyback contract rather than accepting the bid received. Section 30-84 of the City's Code of Ordinances requires that a statement of the specific reasons for placing the contract elsewhere be prepared and signed by the City Manager. Although requested, we were not provided documentation evidencing the specific reasons for awarding the contract to a contractor other than the bidder for the Ora Park project.

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**Recommendation:** The CRA should develop and implement procedures to maintain adequate records of the date and time bids are received and the witnesses to bid openings. The CRA should also develop procedures to comply with the City's Code of Ordinances and document the reasons for awarding contracts to other than the low bidder.

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#### **Finding No. 19: Contractual Services**

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The CRA is responsible for establishing controls to provide assurance that the process of contracting for services is effectively and consistently administered. Such controls should include execution of contracts with clearly defined deliverables, Board approval of all amendments, monitoring of contract payments to ensure they are in accordance with contract terms, and contract provisions requiring the contractor to provide invoices in detail sufficient for proper pre-audit and post audit. Our review of 12 City contracts entered on behalf of the CRA disclosed the following:

- **Contract Monitoring.** The purchase orders for the Ora Park and Ocean Park CRA projects clearly stated that no work was to be done until written authorization had been received from the City Engineer. The written Notices to Proceed were dated March 26, 2007, and April 2, 2007, for the Ora Park and Ocean Park projects, respectively. However, the Ora Park and Ocean Park projects were billed \$115,709 and \$262,645, respectively, as of March 15, 2007, and payments totaling \$340,518

were made 25 and 33 days, respectively, prior to the Notices to Proceed. As a result, services were provided and paid for prior to written authorization from the City Engineer.

- **Contract Payment Documentation.** Some contracts did not require sufficient documentation from contractors to justify the basis for payment. One contract for lobbying services required a monthly retainer payable in advance of services rendered. The contractor was paid approximately \$97,693 during the period February 2004 through April 2006. The contractor's invoices consisted of the following descriptions: "Professional Staff Services" and "Out of Pocket Expenses" and no receipts were attached for the out-of-pocket expenses. In response to our inquiry, City personnel requested that the consulting firm provide copies of the receipts, which were provided to us on June 27, 2007. Absent review of these receipts prior to payment, the CRA could not determine that these expenses were incurred on behalf of the CRA.

Another contract, for legal and professional services involved in real estate acquisitions, was silent as to the required documentation to be submitted when requesting payment. While the contract provided for various functions to be performed, the invoices only provided for total hours worked, job classification of the contractor's employee, and amount. Actual descriptions of the services and dates performed were not provided. Absent detailed contractual terms and invoices, the CRA cannot determine whether the services rendered were in accordance with the contract terms or that the services were for CRA business.

- **Contract Amendments and Change Orders.** Our review disclosed that the contract for legal and professional services relating to land acquisitions had been amended resulting in a fee increase from the original contract price of \$50,075 to \$80,075; however, the CRA could not provide a contract amendment detailing the amended terms, dates, and the services to be rendered. Absent appropriate documentation, the CRA has not demonstrated the justification for the increased fees.

We also noted one contract change order in connection with a contract for design-build services for site improvement at the Jackie Robinson Ballpark, which provided for a fee increase of \$30,050 with a contract completion extension date from January 27, 2005, to April 9, 2005, that was approved during the November 23, 2005, City Commission meeting. As such, the approval was granted 228 days after the extended completion date.

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**Recommendation:** CRA procedures should be strengthened for contractual services to ensure that invoices provide sufficient detail of the services provided, that services are not rendered until properly authorized, documentation for reimbursable expenses are properly submitted with the payment request, and contract amendments and change orders are documented through written contract amendments, and made part of the CRA's official records.

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#### **Finding No. 20: Boardwalk Mixed-use Project**

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On March 15, 2002, the City issued a request for qualifications and proposals (RFQP) on behalf of the CRA for a proposed Boardwalk Mixed-use project within the Main Street CRA area. According to the RFQP, the scope of the project included a four-star hotel with restaurants, lounges, meeting rooms, and on-site parking; a themed entertainment area integrating the Boardwalk, Main Street Pier, Oceanfront Park, and the Bandshell; public amenities and open space, including pedestrian scale lighting, benches, receptacles, restrooms, plazas and water features, such as fountains, pools, and ponds.

In response to the RFQP, five prospective developers submitted letters of interest. At the pre-bid conference, representatives from 11 companies were present. However, City records indicated that only one proposal was received for the project by the June 28, 2002, deadline and that proposal did not contain all requested information in the City's RFQP. The City and CRA subsequently approved a memorandum of understanding, dated November 14, 2002, with the respondent, providing for a negotiated development



agreement by 90 days after the memorandum. The developer requested and was granted two extensions. Subsequently, a development agreement was executed on June 9, 2003.

The RFQP required the proposal to contain the respondent's financial capability, including a statement of financial condition to demonstrate the respondent's ability to fund all project costs and a proposed financial plan, including anticipated sources of financing for the entire project. The responding developer did not furnish sufficient information to demonstrate the ability to fund all project costs and did not include a proposed financial plan.

In November 2002, the City hired a consultant to review the developer's proposal. The consultant recommended that the City fully evaluate and independently reach a conclusion on the project's overall financial viability, including the amount of debt and equity the developer would need to execute the project in total and by phase; obtain and review additional documentation regarding the developer's financial capabilities, preferably audited financial statements; and obtain documentation from the developer relating to its major financing transactions over the past five years to demonstrate its ability to raise third-party financing. Although requested, we were not provided evidence that the recommendations made by the consultant were followed by the City or CRA, including verification of the developer's financial capabilities. We were provided a letter prepared by the developer's certified public accountants which stated that they "are not involved in the determination of their [the developer's] credit worthiness."

Based on the single response to the RFQP, the cost of the Boardwalk project will be approximately \$150 million. Given that the project involved many varied components, which would have required a substantial dedication of resources for a single developer, and the fact that the one respondent failed to include key information to ensure the project's viability, the City may have had more success in attracting additional developers by re-bidding the project or separating the project into smaller components and bidding them individually.

The Boardwalk Mixed-use project was not the only CRA project for which only one bid was received. As discussed in finding No. 18, the City only received one bid for the Ora Park project. The contractor utilized on the Ora Park project, which was acquired through a piggyback contract with the City of Ormond Beach, was also used for another CRA project, costing \$3.5 million, because the City received no bids for that project.

Since the lack of responses, or limited responses, may suggest a systemic problem, contact with potential firms to determine the reasons why there is no interest in responding to the City's requests for proposals may provide valuable information to City officials in resolving those issues. In response to our inquiry, City staff stated that potential contractors had not been contacted.

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**Recommendation:** The CRA should ensure that all required documents are submitted with future RFQPs prior to consideration of awarding contracts. In the event that a sufficient number of responses are not received for future redevelopment projects, the City or CRA should consider contacting potential respondents to ascertain the reasons why there was little interest, re-bid the project, and consider the benefits of separating larger projects with varied components into smaller projects.

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Other
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#### Finding No. 21: Report of Activities

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Section 163.356(3)(c), Florida Statutes, requires each CRA to file with its governing body, on or before March 31 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete set of financial statements setting forth its assets, liabilities, income and operating expenses as of the end of such fiscal year. In addition, the law requires the CRA, at the time of filing the report, to publish in a newspaper of general circulation in the community a notice to the effect that such a report has been filed with the county or municipality and that the report is available for inspection during business hours in the office of the

clerk of the city or county commission and in the office of the agency (CRA).

In response to our request for the report of activities for the 2004-05 and 2005-06 fiscal years, we were provided the City's Comprehensive Annual Financial Reports (CAFR), which included the financial statements of the CRA. In addition, the CAFR for the 2005-06 fiscal year provided tax increment funding amounts received from each taxing authority (see finding No. 8). However, as noted in our report No. 2006-186, finding No. 8, while Section 163.356(3)(c), Florida Statutes, requires the report of activities to include the financial statements of the CRA, it does not appear that the Legislature intended this report to be comprised of only the financial statements of the CRA since the annual financial audit is required pursuant to Section 163.387(8), Florida Statutes. The term "activities" is not defined in the law; however, in order to provide information that would be useful to the taxing authorities that provide tax increment funding to the CRA in evaluating the benefits derived from their financing activities, the CRA should consider including nonfinancial information, such as progress on specific CRA projects and future activities planned, in its report of activities.

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**Recommendation:** The CRA should consult with its taxing authorities regarding the nonfinancial information that should be included in the report of activities.

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#### **Finding No. 22: City Internal Auditor**

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Good internal control dictates that proper monitoring of an organization's operations is enhanced when the individual performing internal audits is not supervised by, and does not report to, management responsible for the activities under review. The Institute of Internal Auditors has developed various practice standards, including Attribute Standard 1110, which states that the chief audit executive should report to a level within the organization that allows the internal audit activity to fulfill its responsibilities. The Standard also states that the internal audit activity should be free from interference in determining the scope of internal auditing, performing work, and communicating results.

As indicated on the City's organizational chart (see Appendix A), the City's Internal Auditor reports to the Finance Director. The Internal Auditor's annual activity plan and audit reports were also submitted to the Finance Director for review and approval. The reports were also reviewed by the City Manager.

In response to our request for any reports on internal audits conducted by the Internal Auditor regarding the CRA or the Redevelopment Services Department, we were provided a Redevelopment Department Operational Review Audit Report, dated March 20, 2007, which cited 11 findings and recommendations, several similar to finding Nos. 1, 6, 11, and 16 noted in this report. Two of the findings related to lack of supporting documentation in the Finance Department's files for CRA expenditures. As of July 31, 2007, 133 days after the internal audit report date, the report had not been presented to the City Commission or CRA Board, or its results discussed during a public meeting.

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**Recommendation:** The City should reorganize the internal audit function so that the Internal Auditor is supervised by, and reports directly to, the City Commission or to an audit committee, comprised of members of the City Commission.

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#### **OBJECTIVES**

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Our objectives for the scope of this audit were to:

- Document our understanding of the CRA's management controls relevant to the areas identified by specific allegations. 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, bond covenants, and other guidelines.
- Determine the extent to which the CRA's management controls promoted and encouraged the achievement of management's objectives in the categories of compliance with controlling laws,

ordinances, and other guidelines; the economic and efficient operation of the CRA; the reliability of financial records and reports; and the safeguarding of assets.

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#### SCOPE

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The Auditor General is authorized by State law to perform independent audits of governmental entities in Florida. Pursuant to Section 11.45(2)(l), Florida Statutes, the Legislative Auditing Committee, at its March 5, 2007, meeting, directed us to conduct an audit of the Daytona Beach Community Redevelopment Agency (CRA).

The scope of this audit included transactions during the period October 1, 2004, through March 31, 2007, and selected transactions taken prior and subsequent thereto, related to allegations concerning the CRA's operations to determine whether such transactions were executed, both in manner and substance, in accordance with the governing provisions of laws, ordinances, bond covenants, and other guidelines.

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#### METHODOLOGY

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The methodology used to develop the findings in this report included the examination of pertinent records of the CRA in connection with the application of

procedures required by applicable Generally Accepted Government Auditing Standards.

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#### AUTHORITY

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Pursuant to the provisions of Section 11.45(2)(l), Florida Statutes, I have directed that this report be prepared to present the results of our operational audit of the Daytona Beach Community Redevelopment Agency for the period October 1, 2004, through March 31, 2007, and selected actions taken prior and subsequent thereto.



David W. Martin, CPA  
Auditor General

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#### MANAGEMENT RESPONSE

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In a letter dated November 8, 2007, the Redevelopment Director provided responses to our preliminary and tentative findings. This letter is included in this report as Appendix B.

This audit was conducted by Keith A. Wolfe, CPA. Please address inquiries regarding this report to Marilyn D. Rosetti, CPA, Audit Manager, via e-mail at [marilynrosetti@aud.state.fl.us](mailto:marilynrosetti@aud.state.fl.us) or by telephone at (850) 487-9031.

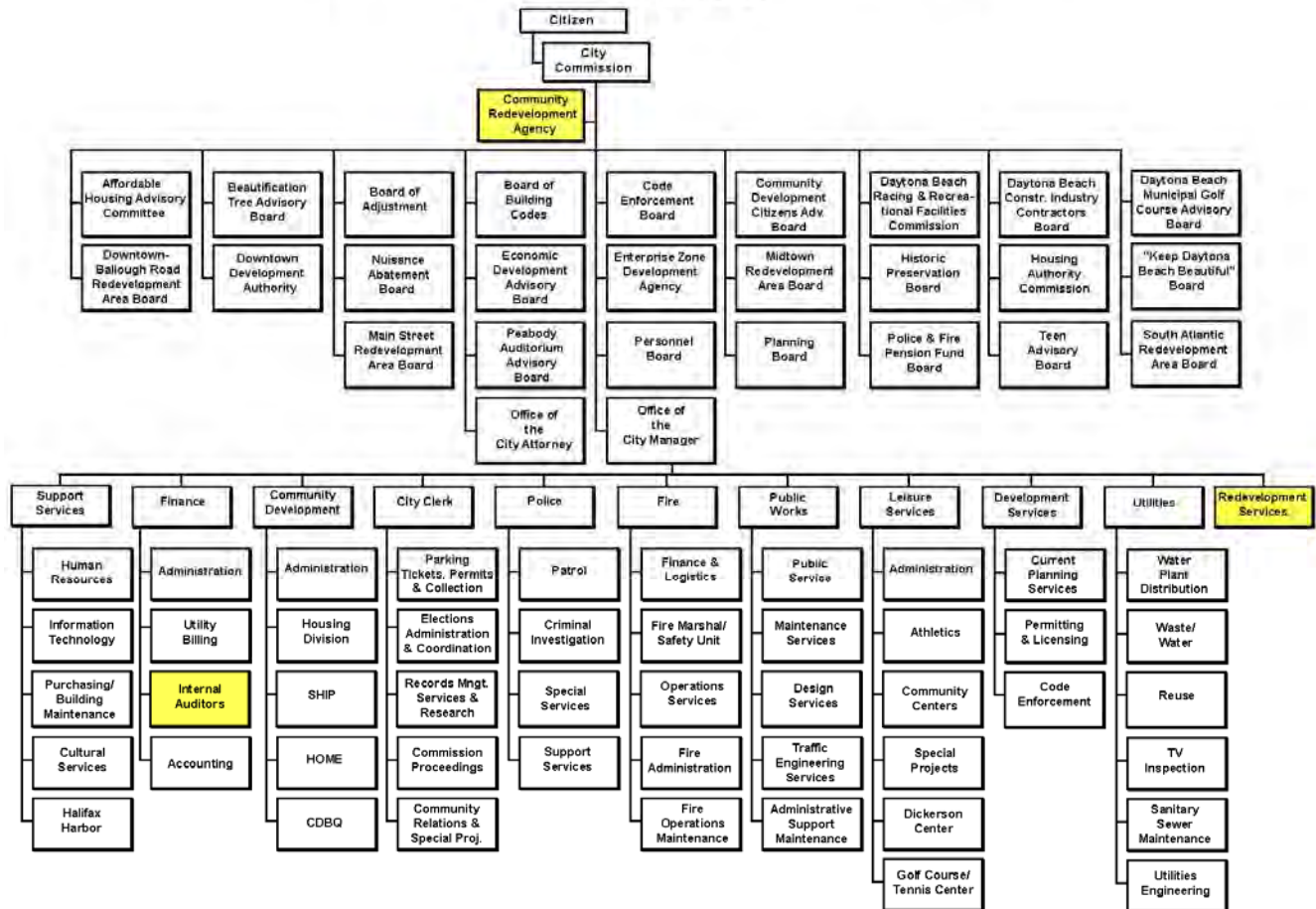
This report, as well as other audit reports prepared by the Auditor General, can be obtained on our Web site (<http://www.myflorida.com/audgen>); by telephone at (850) 487-9024; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

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## APPENDIX A ORGANIZATIONAL CHART

### The City of Daytona Beach Organization Chart Fiscal 2006-07



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APPENDIX B  
MANAGEMENT RESPONSE

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## THE CITY OF DAYTONA BEACH

Department of Development and Administrative Services  
**REDEVELOPMENT DIVISION**

POST OFFICE BOX 2451  
DAYTONA BEACH, FLORIDA 32115-2451  
PHONE 938(6) 671-8180  
Fax (386) 671-8187

November 8, 2007

**DELIVERED VIA FEDERAL EXPRESS**

Mr. David W. Martin, CPA  
Auditor General  
STATE OF FLORIDA  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

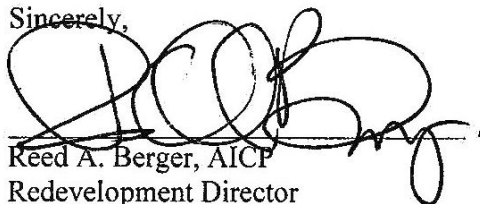
**RE: Daytona Beach Community Redevelopment Agency,**  
for the period October 1, 2004, through March 31, 2007,  
and selected actions taken prior and subsequent thereto.

Dear Mr. Martin,

Pursuant to Section 11.45(4)(d), Florida Statutes, we hereby submit the enclosed written statement of explanation concerning all of the 22 preliminary findings you provided to our office, including our actual or proposed corrective actions.

We appreciate the opportunity to address the findings of this audit and we will work vigilantly to improve the procedures and policies of the Daytona Beach Community Redevelopment Agency in the best interest of our redevelopment areas and the City of Daytona Beach. Please feel free to contact us about any concerns or questions you may have regarding this matter.

Sincerely,



Reed A. Berger, AICP  
Redevelopment Director

c. Daytona Beach Community Redevelopment Agency Board  
Mr. James Chisholm, City Manager  
Mr. Ricardo Kisner, Chief Finance Officer  
Ms. Cheryl Harrison-Lee, Chief Administrative Officer

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## **Statement of Explanation Regarding 22 Preliminary Findings**

Submitted to the State of Florida Auditor General's Office on November 8, 2007

Prepared by Reed Berger, Redevelopment Director, City of Daytona Beach  
on behalf of the Daytona Beach Community Redevelopment Agency

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**Finding No. 1: We noted several expenditures that were either not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Plans.**

Overall, it is our understanding that CRA fund expenditures identified by the Auditor General as *"not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Plans"* were budgeted and used for CRA purposes in accordance with State law and local plans. We note that applicable Statutes governing use of CRA funds (Chapter 163, Part III "Community Redevelopment Act of 1969") provides that the CRA make expenditures that further the goals of the adopted Redevelopment Plans. To that end the CRA relies upon the adopted Redevelopment Plan and annual approved budget for the concurrence and authority to make expenditures that further the goals of the Plan. We also note that the use of CRA funds intended to carry out the goals of a Redevelopment Plan, including expenditures for operating expenses related to the planning and carrying out of a CRA plan are allowable expenses in the absence of statutory language setting forth specific prohibitions to the contrary.

An important principle applied to CRA fund expenditures is that the CRA monies not be a substitute for traditional general fund expenditures, but rather be used for "enhanced" or extraordinary operating expenses and capital projects necessary to carry out the goals of the CRA Redevelopment Plan. To that end the CRA underwrites the costs to build and maintain streetscape beautification, parks, and other public amenities together with additional support services and equipment necessary to operate and maintain the improvements. We believe Section 163.370(2), Florida Statutes supports expenditures of CRA funds including the promotion of special events, increased and concentrated police and code enforcement, and other costs directly associated with public improvements increased maintenance funded by the CRA *"necessary or convenient to carry out and effectuate the purposes and provisions"* of redevelopment.

**Promotional Expenditures** - The Auditor General states that the Downtown/Balough Road Redevelopment Plan prohibits the use of CRA funds related to project financing. The report does not state that this prohibition applies only in the context of a CRA policy regarding the financing of **"private services and commissions"**. This effect of the

prohibition is that, the CRA should not use CRA funds to assist a developer with marketing a project financed with CRA funds. In contrast, the Redevelopment Plan contains the following Policies encouraging promotional expenditures.

**Policy 5.4.4** Encourage the development of an Arts, Culture and Recreation District that takes advantage of Downtown/Balough Road's unique riverfront setting in order to create a differentiated experience that improves the areas competitiveness as a visitor destination.

**Policy 5.4.5** Support efforts to update Downtown/Balough Road Marketing strategies in order to improve the coordination and cross promotion of all existing/planned cultural and special event attractions.

**Policy 5.4.6** Support the coordinated development, promotion, and sustained operation of existing and proposed cultural and educational uses including but not limited to: The Jackie Robinson Stadium and Museum; the Lively Arts Performance Center; and the Manatee Island Environmental Learning Center.

**Policy 5.4.7** Support current efforts to brand and strengthen Downtown / Balough Road's position as a specialty dining/retail district with a special emphasis on food, entertainment and special events anchoring the experience.

Therefore it is our understanding that use of redevelopment funds for promotional expenditures are allowable if they are consistent with the policies of the CRA Redevelopment Plan. The direct and indirect investment into certain areas resulting from such activity is just one of many accepted methods Florida communities use to revitalize their redevelopment areas.

**Police-Related Expenditures.**

We concur with the State Auditor's concern that more specific information would be helpful to demonstrate how funding of additional vehicles, equipment and allocation of police officers in the CRA districts contributes to the reduction of crime and is applicable to "**innovative community policing**". To that end the CRA intends to draft an updated community policing program that accurately reflects the successful strategies employed by the new Police Chief. It is important to note that the expenditures from CRA funds for Police operations were intended to be used for support over and above funds allocated from the General Fund. The additional expenditures for these services in the respective CRAs is necessary to address the concentration of crime that contributes to the disinvestment in the CRA and discourages new investment. The reallocation of police resources to address crime within the CRA districts has proven to be effective in the last year and additional documentation will be provided to demonstrate the value of the expenditures for these additional services.



**PROPOSED CRA ACTION**

The CRA will request reimbursement from the City for CRA funds that it finds were either not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Plans. In addition, the CRA will establish procedures as soon as practical during the current fiscal year to ensure that CRA trust fund expenditures are authorized pursuant to Chapter 163, Part III, Florida Statutes, and CRA Plans. The proposed actions referenced under Finding No.2 are also intended to address this Finding

- Finding No. 2: CRA Plans were not in sufficient detail to provide for a determination that CRA expenditures were in accordance with the Plans.**

**PROPOSED CRA ACTION**

The CRA intends to develop a more detailed Strategic Implementation Plan over the next fiscal year designed to clarify and update the specific actions required to carry out the goals of the Plan. Development of the Strategic Plan will include opportunities for residents, businesses, property owners and their respective Advisory Boards in each CRA district to identify issues and opportunities to carry out the Plan. Through this public review process the CRA may determine that one or more of its Redevelopment Plans should be updated.

- Finding No. 3: Contrary to Section 163.356(3)(c), Florida Statutes, the City Commission did not designate a Chair and Vice Chair of the CRA Board.**

Finding No. 3 is based on the Auditor General's understanding that Section 163.356, Florida Statutes applies where a governing body declares itself to be the community redevelopment agency as authorized in Section 163.357, Florida Statutes. It has been the City's understanding that Section 163.356 does not apply where, as in Daytona Beach, the governing body declares itself to be the community redevelopment agency.

**PROPOSED CRA ACTION**

The City Commission will be requested to designate the CRA Chair and Vice Chair as required by Section 163.356(3)(c), Florida Statutes, and document such designation in the meeting minutes of the governing board as early as the December 5, 2007 Commission Meeting.

- Finding No. 4: Contrary to Section 286.011(1), Florida Statutes, the meetings of the CRA Board were not always noticed.**

**PROPOSED CRA ACTION**

The City Commission meetings that will include CRA business discussions will be properly noticed as both City Commission and CRA Board meetings as early as the December 5, 2007 Commission Meeting.

**Finding No. 5:** The minutes, for the jointly held City Commission and CRA Board meetings, did not indicate, for each official action taken, whether the action was by the City Commission or the CRA Board. Additionally, several minutes were not timely approved.

The current administration has consistently provided meeting minutes in a timely manner regarding the business of the CRA. While we believe the CRA is in compliance with the requirements to provide minutes for the CRA, the City will consider ways to improve the minutes so that they more clearly identify actions and business conducted by the CRA.

**PROPOSED CRA ACTION**

For jointly held meetings of the City Commission and the CRA Board, a clear distinction will be made in the meeting minutes as to which governing body is taking action as early as the December 5, 2007 Commission Meeting. Also, the CRA will continue to ensure that all meeting minutes are transcribed, reviewed, corrected if necessary, and approved by the CRA Board in a timely manner.

**Finding No. 6:** Although the CRA followed City policies and procedures, the CRA Board did not take formal action to adopt the City's policies and procedures for CRA use.

It has been the City's understanding that Section 163.356, Florida Statutes, does not apply where, as in Daytona Beach, the governing body declares itself to be the community redevelopment agency.

**PROPOSED CRA ACTION**

The CRA Board intends to formally adopt the policies and procedures of the City as early as the December 5, 2007 Commission Meeting.

**Finding No. 7:** The CRA did not always use the appropriate property values to calculate tax increment revenues due from taxing authorities.

Although the few instances of errors in calculating TIF revenues based on use of the correct property values were addressed immediately after the clerical error were discovered, staff has taken steps to put procedures in place to reduce the probability of these errors in the future.

**PROPOSED CRA ACTION**

The CRA has implemented procedures to ensure the correct real property values are used in determining the tax increment funding.

- Finding No. 8: Tax increment revenue contributions by taxing authorities reported in the City's Comprehensive Annual Financial Report differed from the CRA's receipt records.**

**PROPOSED CRA ACTION**

City staff will ensure that the amounts received from the taxing authorities are correctly reported in the City's Comprehensive Annual Financial Report (CAFR). The Finance Department has established procedures to ensure CRA funds are properly accounted for and reported accurately in the City's CAFR.

- Finding No. 9: Amounts due to the CRA from Volusia County for late tax increment contributions were used to offset amounts due by the City to the County.**

The City acknowledges that Volusia County did not pay the City the tax increment payment to the CRA timely and did request payment in the amount of \$109,245.00 for the required late fee and associated accrued interest. Volusia County also acknowledged that the required payment was late and agreed with the amount owing. During the audit period, the County provided services to the CRA in the amount of \$125,429.88. Rather than both entities issuing manual checks to each other, the City and County agreed to offset the late tax payment of \$109,245.00 with the services provided by the County. The difference of \$16,184.88 between the late payment amount of \$109,245.00 and the value of services provided by the County of \$125,429.88 became an in-kind contribution. As a result, the CRA has already received more than the benefit of \$109,245; therefore, no further adjustments or action are required to be made on behalf of the City or CRA.

**PROPOSED CRA ACTION**

The City has implemented procedures to ensure that amounts due to/from an entity are not offset against each other in the future.

- Finding No. 10: Tax increment revenues received by the CRA were not always timely deposited. Additionally, investment earnings on funds advanced to the City's capital project fund were not recorded to the credit of the CRA.**

**PROPOSED CRA ACTION**

Understanding that there was an instance over the holiday season when a deposit was delayed until after the New Year, the City has implemented procedures to ensure that deposits are made in a timely manner. Also, the CRA will submit an invoice to the City for the interest earnings on funds held in the City's capital projects fund to ensure that interest earned on these funds are credited to the capital projects fund and used only on CRA projects

**Finding No. 11: Salaries and benefits charged to the CRA trust fund were not always supported by time records or appropriately allocated.**

**PROPOSED CRA ACTION**

The City concurred with this recommendation that was provided in the previous audit of the CRA funds and in fiscal year 2006-07 implemented a process where actual time spent is charged to the CRA funds.

**Finding No. 12: CRA personnel records did not contain documentation that the educational background of a former redevelopment director was verified.**

The City already has procedures in place to verify the educational background of CRA personnel.

**PROPOSED CRA ACTION**

No additional action is required.

**Finding No. 13: Contrary to City policy, severance pay was provided to the former redevelopment director.**

The payment of the severance pay is in accordance with personnel practices.

**PROPOSED CRA ACTION**

No additional action is required.

**Finding No. 14: Vehicle allowance and cellular telephone stipends were granted to employees without documentation supporting the justification for the amount of the benefits granted.**

The City already has standard management policy for vehicle allowance and telephone stipends.

**PROPOSED CRA ACTION**

No additional action is required.

**Finding No. 15: Disbursement processing procedures could be improved to ensure that purchases are properly approved, the goods or services are received, and invoices are paid only once to vendors.**

**PROPOSED CRA ACTION**

Changes will be implemented in the City's purchasing process to ensure that all requisitions are approved, and goods and services properly received by the City including the receiving report, if applicable. In addition, the City will "cancel" all original invoices.

**Finding No. 16: Contributions to other entities were made without the use of written agreements specifying the purpose of the contributions and providing a mechanism whereby the CRA can monitor the use of the moneys. Additionally, CRA Board approval of the contributions was not always documented.**

**PROPOSED CRA ACTION**

The CRA will utilize written agreements, including appropriate monitoring provisions, to document the authorized uses of CRA moneys transferred to other governmental and nonprofit entities, and conduct periodic reviews of the entities' records to ensure moneys were used as agreed.

**Finding No. 17: Real property was acquired without the use of appraisals or the purchase price exceeded the highest appraisal obtained. Additionally, CRA Board approval was not always documented for the purchase of the property.**

By Resolution Nos. 02-247, 02-520 and 03-69, the City entered into a \$6 million dollar State of Florida FTC grant ("State grant"), to purchase properties and develop Ocean Park at the foot of the Main Street Pier. This grant imposed terms and conditions on the use of the proceeds that included the method of negotiating the purchase of private property. The City was prohibited from using eminent domain and after obtaining appraisals, had to negotiate the best deal possible with the property owners in accordance with the requirements of the State grant. Given the grant conditions imposed under these circumstances, the purchases of most properties exceeded the appraisals. A City-owned lot was also exchanged in the negotiating process. These resolutions regarding the State grant further support prior correspondence from staff to the State Auditor and we believe that the CRA followed the terms and conditions of the purchase imposed by the State grant.

**PROPOSED CRA ACTION**

The CRA intends to implement procedures to ensure that appraisals are obtained prior to purchasing property, justifications for paying more than appraised values are documented, and CRA Board and City Commission approval is obtained prior to the purchase of property.

**Finding No. 18: Competitive selection procedures could be improved to provide for better recordkeeping. Additionally, the contractor utilized for one CRA project was obtained through another entity even though a bid was received by the City for the CRA project.**

**PROPOSED CRA ACTION**

The City will date and time stamp envelopes and other packaging for proposals received from prospective vendors and maintain bid attendance



sheets. The CRA will adopt these revised City of Daytona Beach procurement procedures and practices.

**Finding No. 19: Amounts were billed and paid on contracts for services rendered prior to the date on which the notice to proceed was issued. Contracts did not always require sufficient documentation to be submitted by contractors to provide a basis for payment. Documentation to support one contract amendment and one change order providing for fee increases, and CRA Board approval thereof, could not be provided.**

The CRA has legislative authority to authorize ratification of practices and approvals necessary to expedite the purpose of the service provided.

**PROPOSED CRA ACTION**

The CRA will review its procedures for contractual services including but not limited to the following issues: invoices provide sufficient detail of the services provided, that services are not rendered until properly authorized, documentation for reimbursable expenses are properly submitted with the payment request, and contract amendments and change orders are documented through written contract amendments, and made part of the CRA's official records.

**Finding No. 20: The City awarded a large contract to a developer, the only respondent to a request for qualifications and proposals (RFQP), notwithstanding the fact that the developer failed to provide key elements in its response to the RFQP.**

In the case cited by the State Auditor regarding the Boardwalk Hotel Project the CRA made several unsuccessful attempts beginning in the late 1980's until it received three (3) qualified responses and after a lengthy public process of review voted to reject all three responses and then later accept one response as documented by the attached resolutions. In other words, the CRA acted appropriately in its exhaustive effort to seek developers from across the nation to undertake a complicated and risky venture given the state of the real estate market and other economic factors at the time the RFP was issued.

**PROPOSED CRA ACTION**

The CRA will continue to ensure that all required documents are submitted with future RFPQs, per its current practice, prior to consideration of awarding contracts. In the event that a sufficient number of responses are not received for future redevelopment projects, the CRA will consider its options to re-issue an RFQP or take other actions it deems are appropriate and legal.

**Finding No. 21: The CRA's report of activities for the 2004-05 and 2005-06 fiscal years included only the required financial statements, but did not include nonfinancial information that may be of interest to taxing authorities.**

While not required by Statutes, the City believes in open and transparent government. To that end the City produces a Quarterly Capital Project reports in addition to holding neighborhood meetings and monthly CRA Advisory Board meetings to share information with the public utilizing the latest forms of media technology to post information.

**PROPOSED CRA ACTION**

The CRA will provide non-financial information to taxing authorities as a part of its report of activities.

**Finding No. 22: The City's Internal Auditor reports to management responsible for the activities under review. Additionally, an internal audit of the CRA, issued March 20, 2007, had not been presented to the CRA Board as of July 31, 2007.**

**PROPOSED CRA ACTION**

The City has taken steps to change the job description of the internal auditor position to reflect the intended purpose as approved in the fiscal 2007-08 budget.



# DAYTONA BEACH COMMUNITY REDEVELOPMENT AGENCY

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## Follow-up on Operational Audit Report No. 2008-036



STATE OF FLORIDA  
AUDITOR GENERAL  
DAVID W. MARTIN, CPA

**MAYOR, CITY COMMISSIONERS, CITY MANAGER,  
AND COMMUNITY REDEVELOPMENT AGENCY EXECUTIVE DIRECTOR**

City of Daytona Beach Mayor, City Commissioners, City Manager, and the Daytona Beach Community Redevelopment Agency (CRA) Executive Director who served during the period December 2007 through June 2009 are listed below:

Glenn Ritchey, Mayor

<u>City Commissioners</u>	<u>District No.</u>
Richard W. Shiver	1
Pam Woods	2
Sheila K. McKay-Vaughn	3
Robert A. Gilliland	4
Dwayne L. Taylor, to November 4, 2008	5
Derrick L. Henry, from January 7, 2009	5
Cassandra G. Reynolds	6

James Chisholm, City Manager

Reed Berger, CRA Executive Director

The project team leader was Keith Wolfe, CPA, and the project was supervised by Michael J. Gomez, CPA. Please address inquiries regarding this report to Marilyn D. Rosetti, CPA, Audit Manager, by e-mail at [marilynrosetti@aud.state.fl.us](mailto:marilynrosetti@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 ([www.myflorida.com/audgen](http://www.myflorida.com/audgen)); by telephone (850 487-9024); or by mail (G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).



## DAYTONA BEACH COMMUNITY REDEVELOPMENT AGENCY

### FOLLOW-UP ON OPERATIONAL AUDIT REPORT NO. 2008-036

#### SUMMARY

This report provides the results of our follow-up procedures for each of the findings included in report No. 2008-036 and the Daytona Beach Community Redevelopment Agency's (CRA) response thereto. Our follow-up procedures to determine the CRA's progress in addressing the 22 findings and recommendations contained in report No. 2008-036 disclosed that, as of the completion of our follow-up procedures in June 2009, the CRA's actions adequately corrected 9 findings, partially corrected 5 findings, and had not corrected 6 findings. The CRA took no corrective action on 2 findings.

#### BACKGROUND

The Auditor General is authorized by State law to perform audits of governmental entities in Florida. As directed by the Legislative Auditing Committee, we conducted an operational audit of the Daytona Beach Community Redevelopment Agency for the period October 1, 2004, through March 31, 2007, and selected actions taken prior and subsequent thereto. Pursuant to Section 11.45(2)(l), Florida Statutes, the Auditor General, no later than 18 months after the release of report No. 2008-036, must perform such appropriate follow-up procedures as deemed necessary to determine the Daytona Beach Community Redevelopment Agency's progress in addressing the findings and recommendations contained within that report.

#### STATUS OF REPORT NUMBER 2008-036 FINDINGS

##### Management of the Community Redevelopment Agency (CRA)

#### Finding No. 1: Use of CRA Funds

##### Previously Reported

We noted several expenditures that were either not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Plans. These expenditures included promotional expenditures, police-related expenditures unrelated to policing innovation plans, lobbying services, electric bills for street lights, and other expenditures.

We recommended that the CRA request reimbursement from the City for the CRA funds that were either not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Plans, and that procedures be adopted to ensure that CRA trust fund expenditures are authorized pursuant to Chapter 163, Part III, Florida Statutes, and CRA Plans.

##### Results of Follow-Up Procedures

*The CRA's actions partially corrected this finding.* On November 6, 2007, the City reimbursed the CRA \$1,475 for questioned police vehicle acquisition costs incurred during 2002 and 2004. On May 20, 2009, subsequent to our inquiry, the City reimbursed the CRA \$784,491 of the \$1,174,601 other questioned CRA trust fund expenditures identified in report No. 2008-036. Amounts not reimbursed included promotional expenditures of \$307,201 and electric bills for street lights in the amount of \$82,909. Although CRA staff considered the remaining unreimbursed

expenditures to be in accordance with law and CRA plans, specific statutory authority upon which the determination was based was not provided.

Funds allocated to, and deposited in, a CRA trust fund may generally only be used in accordance with a CRA Plan to finance or refinance community redevelopment (i.e., undertakings, activities, or projects in a community redevelopment area for the elimination or prevention of slums and blight, reduction of crime, or the provision of affordable housing). Section 163.370(3), Florida Statutes, describes activities that may not be financed with CRA funds, including general operating expenses. Our review of CRA trust fund expenditures during the period December 2007 through March 2009, identified payments to the Daytona Beach Partnership Association for \$11,168, and the Main Street Merchant Association for \$75,000. Documentation supporting these expenditures related to street festivals in the Main Street and Downtown redevelopment areas. However, the documentation indicated that these festivals were annual events and there were no provisions in the contracts that related to specific redevelopment projects within the CRA areas. We also noted payments, totaling \$250,000, to the Daytona Beach International Festival (DBIF), although supporting documentation indicated that the payments were pursuant to a loan agreement between the City and DBIF and, therefore, did not appear to be an authorized use of CRA funds. In addition, we noted that 9 of 42 CRA trust fund expenditures reviewed were for general operating expenditures of the City which are not authorized uses of CRA funds. These expenditures included food/housing (\$20,000), holiday decorations (\$7,670), electric bills for street lights (\$2,468), pressure washing of street pavers (\$200), and swimming pool chemicals (\$100).

Our review of CRA trust fund expenditures also included journal transfers from the CRA trust fund to other City funds. For the 2008-09 fiscal year, through March 31, 2009, transfers from the CRA trust fund to the general fund totaled \$803,747. In response to our request for supporting documentation, City personnel stated that the transfers were for police and code enforcement services provided to the redevelopment areas. However, none of the CRA Plans included police innovations that would justify police-related expenditures from the CRA trust fund. As noted above, general operating expenditures are not authorized uses of CRA funds.

*In his response, the Redevelopment Director indicated that some of the expenditures we questioned were operating or maintenance expenditures for CRA projects, such as electric bills for streetlights installed by the CRA or pressure washing of street pavers installed by the CRA. However, for such operating and maintenance expenditures to be appropriately funded by the CRA, it would have been necessary for the CRA plan to indicate that such lights and pavers would not only be installed but that operating and maintenance expenditures would also be paid by the CRA. The Redevelopment Director also took exception to the concept that community policing innovation must be described in the CRA plan, not just mentioned as an authorized program. For any community policing innovation to be funded by the CRA, it must be described in the CRA plan in sufficient detail to be authorized for expenditure pursuant to Section 163.387, Florida Statutes, which requires that moneys in the CRA Trust Fund may only be expended pursuant to what is described in the CRA plan. The CRA plan contained no description of what the community policing innovation entailed. Records provided for our review did not distinguish the expenditures for policing incurred by the CRA from general operating expenses of the City.*

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## **Finding No. 2: Contents of CRA Plans**

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### **Previously Reported**

CRA Plans were not in sufficient detail to provide for a determination that CRA expenditures were in accordance with the Plans.

We recommended that the CRA revise its CRA Plans to include sufficient detail to demonstrate that expenditures of the CRA funds are in accordance with Section 163.387(6), Florida Statutes. Such detail would provide additional information to the taxing authorities required to contribute to the CRA and the public as to the intentions of the CRA and how it will accomplish its redevelopment objectives.

### **Results of Follow-Up Procedures**

*The CRA's actions had not corrected this finding.* The CRA Board approved the four amended CRA Plans, effective October 1, 2008, during its September 3, 2008, meeting. Our review of these amended CRA Plans disclosed that, while the language was modified in the Downtown-Balough Road, Main Street, and Midtown CRA Plans to specifically provide for promotional programs, marketing festivals, and special events, in addition to other similar activities, these events were not tied to specific CRA projects contained therein. Further, the amended CRA Plans generally did not include specific planned capital projects to be undertaken or pertinent updates to existing capital projects. For example, the amended Midtown CRA Plan refers to projects with outdated completion dates of 1998, 1999, and the 2001-02 through 2004-05 fiscal years. Also, the amended Main Street CRA Plan includes the replacement of sewer lines, a lift station, and storm drainage system, with the same estimated cost data as was stated in the 1981 Plan. Such information does not provide relevant, current information regarding CRA activities, with current costs, or specific projects under consideration by the CRA Board, which would provide guidance and authorization as to the proper use of CRA funds.

*In his response, the Redevelopment Director stated that, "The CRA does agree with the idea that where possible the Plans should be clear about the intended use of funds." He also provided the details of Section 163.387(6), Florida Statutes, which indicates that moneys in the redevelopment trust fund may be expended for undertakings of a CRA as described in the CRA plan for various purposes, emphasizing that the law states certain activities but includes the phrase "but not limited to." Finally, he stated that because the CRA was created prior to 1984 legislative changes to CRA-related laws, the CRA was not required to be specific in its CRA plans. Although the law does not require pre-1984 CRA plans to be specific, Section 163.387(6), Florida Statutes, applies to all CRAs, regardless of creation date, and this section requires that moneys can only be expended as described in the CRA plan. While the activities for which CRA moneys may be expended are not limited to those described in Section 163.387(6), Florida Statutes, the activities for which CRA moneys are to be expended must be sufficiently described in the plan to be authorized.*

### **Finding No. 3: Appointment of CRA Chair and Vice Chair**

#### **Previously Reported**

Contrary to Section 163.356(3)(c), Florida Statutes, the City Commission did not designate a Chair and Vice Chair of the CRA Board.

We recommended that the City Commission designate the CRA Chair and Vice Chair as required by law and document such designation in the meeting minutes of the governing board.

### **Results of Follow-Up Procedures**

*The City's actions adequately corrected this finding.* At its December 5, 2007, meeting, the City Commission, adopted Resolution No. 07-438, designating the City Mayor as the CRA Chair, and the Vice Mayor as the CRA Vice Chair.

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**Finding No. 4: Public Notice of Meetings**

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**Previously Reported**

Contrary to Section 286.011(1), Florida Statutes, the CRA Board meetings were not always noticed.

We recommended that the City Commission meetings that will include CRA business discussions be properly noticed as both City Commission and CRA Board meetings, or CRA Board meetings be separately noticed and held.

**Results of Follow-Up Procedures**

*The CRA's actions adequately corrected this finding.* During the CRA's December 19, 2007, meeting, CRA Resolution No. 07-442 was adopted, providing for CRA Board meeting dates and times, as needed, to be concurrent with City Commission meeting dates. We observed meeting notices posted in City Hall for the April 15, May 6, and June 3, 2009, CRA Board meetings.

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**Finding No. 5: CRA Board Meeting Minutes**

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**Previously Reported**

The minutes for the jointly held City Commission and CRA Board meetings did not indicate, for each official action taken, whether the action was by the City Commission or the CRA Board. Additionally, several minutes were not timely approved by the CRA Board.

We recommended that for jointly held meetings of the City Commission and the CRA Board, a clear distinction be made in the meeting minutes as to which governing body is taking action. Also, we recommended that the CRA ensure that all meeting minutes are transcribed, reviewed, corrected if necessary, and approved by the CRA Board in a timely manner.

**Results of Follow-Up Procedures**

*The CRA's actions adequately corrected this finding.* Effective with the December 19, 2007, meeting, the CRA Board held separate meetings from those of the City Commission, and kept written records of the meetings. Our review of the meeting minutes disclosed that the minutes were approved at a subsequent CRA Board meeting.

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**Finding No. 6: Policies and Procedures**

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**Previously Reported**

Although the CRA followed City policies and procedures, the CRA Board did not take formal action to adopt the City's policies and procedures for CRA use.

We recommended that the CRA Board formally adopt policies and procedures for the CRA.

**Results of Follow-Up Procedures**

*The CRA's actions adequately corrected this finding.* At its December 19, 2007, meeting, the CRA Board adopted CRA Resolution No. 07-442, which established the CRA policies and procedures to be the same as the City.

Revenues and Cash Receipts
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**Finding No. 7: Tax Increment Funding****Previously Reported**

The CRA did not use the appropriate property values to calculate tax increment revenues due from the Downtown Development Authority.

We recommended that the CRA implement procedures to ensure the correct real property values are used in determining the tax increment funding.

**Results of Follow-Up Procedures**

*The CRA's actions had not corrected this finding.* Section 163.387(1)(a), Florida Statutes, provides that the real property values within the CRA boundary are to be used in calculating the tax increment funding (TIF). Our review of the TIF calculations for the 2007-08 and 2008-09 fiscal years disclosed that the property values used in calculating TIF in both fiscal years for the Downtown CRA included both real property and tangible personal property. Additionally, the base year taxable value for the TIF due from the Downtown Development Authority (DDA) was calculated using the tax value of the Downtown CRA boundaries, which is larger than the DDA boundaries. These errors resulted in an overpayment of \$51,546 (2007 TIF) and \$48,637 (2008 TIF) to the CRA trust fund. In response to our inquiry regarding the calculations, City personnel stated that "Though the wrong numbers were used in the original calculation, transfers between the Downtown Redevelopment Fund and Downtown Development Authority was a wash. The net accounting effect for these transactions is zero." While the net effect may be zero, procedures to prevent such errors from occurring, and not being detected, should be developed and implemented.

**Finding No. 8: Reporting Taxing Authority Contributions****Previously Reported**

Tax increment revenue contributions by taxing authorities reported in the City's Comprehensive Annual Financial Report (CAFR) differed from the CRA's receipt records.

We recommended that the CRA consult with City staff to ensure that the amounts received from the taxing authorities are correctly reported in the CAFR.

**Results of Follow-Up Procedures**

*The CRA's actions adequately corrected this finding.* Our review of the 2007-08 fiscal year TIF remittances from each taxing authority agreed with the amounts reported in the City's 2007-08 fiscal year CAFR.

**Finding No. 9: Late Tax Increment Payments****Previously Reported**

Amounts due to the CRA from Volusia County for late tax increment contributions did not include an additional five percent late remittance amount, and were used to offset amounts due by the City to the County.

We recommended that the City reimburse the CRA trust fund for the amount of the additional five percent and interest totaling \$109,245.



**Results of Follow-Up Procedures**

*The CRA took no corrective action on this finding.* As noted in report No. 2008-036, City personnel indicated services provided by the County exceeded the amount of late penalty and interest due; however, no documentation was provided to support the value of the services, and the services were noted as being provided to the City, not the CRA. In response to our request for documentation evidencing the CRA Board's waiver of the additional five percent, City personnel stated in correspondence dated May 26, 2009, that "the City has not yet received approval from the CRA Board" and "the City is in the process of getting this approval by the CRA Board." As of June 22, 2009, no documentation was provided to us to evidence CRA Board approval.

**Finding No. 10: Investment of CRA Funds****Previously Reported**

Tax increment revenues received by the CRA were not always timely deposited. Additionally, investment earnings on funds advanced to the City's capital projects fund were not recorded to the credit of the CRA.

We recommended that the CRA strengthen its receipt depositing procedures to ensure that deposits are made timely to reduce the risk of loss and maximize interest earnings. Also, we recommended that the CRA either submit an invoice to the City for the interest earnings on funds held in the City's capital projects fund or ensure that interest earned on these funds are credited to the capital projects fund and used only on CRA projects.

**Results of Follow-Up Procedures**

*The CRA actions partially corrected this finding.* Our review of CRA deposits for the 2007-08 and 2008-09 fiscal years disclosed that receipts were timely deposited in the City's bank account. City personnel stated that the City discontinued the practice of placing CRA capital projects in the City's funds. However, although requested, we were not provided documentation evidencing the transfer of interest earned on CRA funds held in the City's capital projects fund as noted in report No. 2008-036.

**Payroll and Personnel Administration****Finding No. 11: CRA Salary Expenses****Previously Reported**

Salaries and benefits charged to the CRA trust fund were not always supported by time records or appropriately allocated.

We recommended that procedures be implemented to ensure that actual time spent by employees on CRA activities is supported by documentation, such as timesheets, and that such documentation supports salaries and benefits paid by the CRA trust fund.

**Results of Follow-Up Procedures**

*The CRA's actions had partially corrected this finding.* Our review of 25 salary expenditures from the CRA trust fund during the period October 1, 2008, to March 31, 2009, disclosed that 22 expenditures were not supported by timesheets that properly listed the amount of hours worked for each CRA activity. Subsequent to our review of salary expenditures, we were provided a document entitled Redevelopment Department Expenditures Policy & Procedures (Policy), dated March 4, 2009. The Policy provides that timesheets are to be completed based upon the time spent working on the various CRA plan projects. However, our test included five salary expenditures subsequent to the

enactment of the Policy and, for these five, the hours recorded on the employees' timesheets did not identify the CRA activity to properly allocate the salary expenditures. The CRA later provided copies of redevelopment employee timesheets from July 2009 wherein the employees' recorded time was charged to the various redevelopment areas.

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**Finding No. 12: Qualification of New Hires**

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**Previously Reported**

CRA personnel records did not contain documentation that the educational background of a former redevelopment director was verified.

We recommended that CRA procedures be developed and implemented to verify potential employees' educational background prior to offering employment. Also, documentation of the verification process should be maintained.

**Results of Follow-Up Procedures**

*The CRA's actions adequately corrected this finding.* Our current review disclosed that the CRA had only one new hire during the audit period. We reviewed the education and employment experience of the successful candidate for the position of CRA Project Manager and, based upon the job qualifications stated in the position description and the candidate's employment experience, the position appeared to be filled with a person meeting the necessary job qualifications. Additionally, since the candidate was a current City employee, verification of the candidate's experience was already documented in the candidate's personnel file.

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**Finding No. 13: Severance Pay**

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**Previously Reported**

Contrary to City policy and without approval of the CRA Board, severance pay in the amount of \$28,433 was provided to the former redevelopment director who had resigned.

We recommended that CRA procedures be strengthened to ensure that severance pay is granted and calculated in accordance with the City's Code of Ordinances and CRA policy in effect at the time. Also, we recommended that the CRA seek repayment of the excess funds from the former redevelopment director.

**Results of Follow-Up Procedures**

*The CRA's actions had not corrected this finding.* Although requested, we were not provided with CRA Board approval of the severance payment to the former redevelopment director or documentation of the actions taken to seek reimbursement of the moneys paid. Subsequent to our inquiry, we were provided with a letter dated March 19, 2009, sent to the former redevelopment director, which requested repayment and stated that the CRA did not have a policy to permit severance payments to its employees and, therefore, was not authorized to fund severance payments. The returned delivery confirmation receipt stated that the letter was undeliverable and could not be forwarded. However, we were not advised of any additional actions taken to collect these funds.

Our current review disclosed that the CRA had an employee submit a resignation letter, dated September 17, 2008, immediately terminating his employment. The City/CRA's policy provides that employees who resign are not eligible for severance pay. However, the employee continued to be included on the CRA payroll through December 20, 2008, although he performed no services for the CRA. During this time the employee was placed on administrative leave and received his normal salary (including receiving a raise of two percent effective October 1, 2008), in addition to holiday leave, Christmas bonus pay, and insurance benefits totaling \$17,223, from the CRA. Although requested, we

were not provided any written documentation evidencing the terms of this severance package, the reasons the CRA agreed to such expenditures, or CRA Board approval of the payments.

In response to our request for a copy of the severance agreement, City personnel indicated that “[p]lease be advised that this was an oral agreement. The form HR-11 was prepared, and signed by City personnel and reviewed by the City employee; however, it was never signed, nor required to be signed by the employee.” However, this Form HR-11 only indicates the employee resigned with an effective date of December 26, 2008 and fails to document the terms of the severance agreement nor what public purpose was achieved by entering such agreement.

We were also provided a memorandum by a Deputy City Attorney opining that “[b]argained for employee severance packages during the term of employment therefore do not violate the City Code, nor are they prohibited by Florida Law.” This memorandum further cites Florida cases holding that certain severance agreements do not violate Florida’s extra compensation statute (Section 215.425, Florida Statutes) and that such agreements are an important tool in making personnel decisions. While we agree that severance agreements may under appropriate circumstances serve a public purpose, the benefit to the CRA of this agreement is not apparent nor did the CRA’s records include documentation demonstrating such a benefit. The cases cited by the Deputy City Attorney all involve situations where the terminating employee provided consideration in entering the agreement such as agreeing to retire early or relinquishing legal claims against the employer. Expenditures by a governmental entity must serve primarily a public purpose and severance agreements should not be entered into unless the entity receives valuable consideration. Further, as recently noted by the Attorney General in Opinion 2007-26, a severance pay “policy adopted at the time of termination of the employee, however, would not be representative of compensation earned during service and thus would violate section 215.425, Florida Statutes. While a severance pay policy in lieu of notice may be adopted for current employees, it must be part of the compensation benefits earned after the policy’s adoption.”

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#### **Finding No. 14: Fringe Benefits**

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##### **Previously Reported**

Vehicle allowances and cellular telephone stipends were granted to employees without documentation justifying the amount of the benefits granted.

We recommended that the CRA adopt a policy that ensures that vehicle allowances and cellular telephone stipends paid from the CRA trust fund are based upon reasonable documentation supporting the business use for CRA purposes.

##### **Results of Follow-Up Procedures**

***The CRA took no corrective actions on this finding.*** While our review of fringe benefits to CRA and non-CRA employees disclosed that the number of employees receiving an auto allowance and/or cellular telephone stipends paid from the CRA trust fund decreased, documentation supporting the benefit amounts established was not available, although requested.

In response to our request for the documentation prepared to establish the stipend amounts, we were provided the City policies cited in report No. 2008-036. As we indicated in report No. 2008-036, since CRA trust fund moneys are restricted to specified uses, any fringe benefit charged to the CRA trust fund must be documented by records supporting the amount charged as being a reasonable expense for conducting CRA business.

***In his response, the Redevelopment Director indicated that the CRA provided us with City policies which do not require documentation to support amounts charged for vehicle allowances or cellular telephone***

*stipends. However, since CRA funds are restricted for only authorized purposes, it is incumbent upon the CRA to demonstrate that any CRA funds were expended for those authorized purposes.*

<b>Procurement of Goods and Services</b>
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### **Finding No. 15: Disbursements Processing**

#### **Previously Reported**

Disbursement processing procedures could be improved to ensure that purchases are properly approved, the goods or services are received, and invoices are paid only once to vendors.

We recommended that the CRA ensure that requisitions and purchase orders are used to document the approval of purchases prior to incurring an obligation for payment. Additionally, we recommended that the CRA ensure that expenditure documentation includes evidence that goods and services were received and approved by authorized personnel, that a proper pre-audit of supporting documentation is conducted prior to payment, and that invoices are canceled when paid.

#### **Results of Follow-Up Procedures**

*The CRA's actions had not corrected this finding.* Our review of 42 disbursements from the CRA trust fund for the period December 1, 2007, through March 31, 2009, disclosed the following:

- For all 42 disbursements, totaling \$1,495,556, the invoices were not canceled or marked as paid
- For 13 disbursements, totaling \$1,018,489, supporting documentation did not include approval by authorized personnel.
- For 19 disbursements, totaling \$41,423, evidence of the receipt, review, and acceptance of goods or services was not documented.
- For four disbursements, totaling \$23,580, the individual initiating the requisition also approved the requisition.
- For three disbursements, totaling \$22,655, a requisition or purchase order was required by City/CRA purchasing policies, but was not issued.
- For two disbursements, totaling \$4,790, the requisition and purchase order were issued on the same date as the related invoice.
- For four disbursements, totaling \$1,317, the purchase order was dated after the invoice date.

<b>Contractual Services</b>
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### **Finding No. 16: Contributions to Other Entities**

#### **Previously Reported**

Contributions to other entities were made without the use of written agreements specifying the purpose of the contributions and providing a mechanism whereby the CRA can monitor the use of the moneys. Additionally, CRA Board approval of the contributions was not always documented.

We recommended that the CRA utilize written agreements, including appropriate monitoring provisions, to document the authorized uses of CRA moneys transferred to other governmental and nonprofit entities, and conduct periodic reviews of the entities' records to ensure moneys were used as agreed.

**Results of Follow-Up Procedures**

*The CRA's actions partially corrected this finding.* Although our review of contributions to other entities from the CRA disclosed that written agreements were used in some instances, we did note that the CRA provided funding to a cemetery (a nonprofit entity) for \$25,000, and the Salvation Army in the amount of \$10,000, without written agreements as to the allowable use of the funds or monitoring provisions for the CRA. Additionally, our review of the CRA Board meeting minutes did not disclose Board approval of funding for the cemetery or the Salvation Army

**Finding No. 17: Property Acquisitions****Previously Reported**

Real property was acquired without the use of appraisals, or the purchase price exceeded the highest appraisal obtained. Additionally, CRA Board approval was not always documented for the purchase of property.

We recommended that the CRA implement procedures to ensure that appraisals are obtained prior to purchasing property, justifications for paying more than appraised values are documented, and CRA Board approval, and City Commission approval, as applicable, is obtained prior to the purchase of property.

**Results of Follow-Up Procedures**

*The CRA's actions adequately corrected this finding.* Our review of the acquisition of five parcels of property, with purchase prices ranging from \$20,000 to \$450,000, disclosed that the proper appraisals were obtained and CRA Board approval of the purchase price was documented in the CRA Board minutes.

**Finding No. 18: Competitive Selection Procedures****Previously Reported**

Competitive selection procedures could be improved by maintaining documentation of procurement activities and decisions. Additionally, the contractor utilized for one CRA project was obtained through another entity even though a bid was received by the City for the CRA project.

We recommended that the CRA develop and implement procedures to maintain adequate records of the date and time bids are received and the witnesses to the bid openings. We also recommended that the CRA develop procedures to comply with the City's Code of Ordinances and document the reasons for awarding contracts to other than the lowest bidder.

**Results of Follow-Up Procedures**

*The CRA's actions had not corrected this finding.* Our review of the competitive selection records for four contracts awarded during the audit period disclosed the following:

- The CRA had not maintained the date and time stamped bid envelopes for three bid openings.
- The CRA had not maintained documentation signed by those individuals in attendance at three bid openings.
- Documentation of each City and CRA employee evaluating the bid documents was not maintained as part of the bid package for two of the bid openings.

*In his response, the Redevelopment Director indicated that it is State government's purchasing practices we suggested the CRA follow and that City policies and procedures adopted by the CRA do not require that the records described in the finding be retained. However, the point of our finding is that records should be maintained to evidence the CRA's procurement activities and decisions. Such records would assist the CRA*



*in the event its procurement decisions were challenged. Also, such documents, once created, constitute public records as defined in Chapter 119, Florida Statutes, and must be retained in accordance with the records maintenance schedule established by the Department of State.*

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**Finding No. 19: Contractual Services**

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**Previously Reported**

Amounts were billed and paid on contracts for services rendered prior to the date on which the notice to proceed was issued. Contracts did not always require sufficient documentation to be submitted by contractors to provide a basis for payment. Documentation to support one contract amendment and one change order providing for fee increases, and CRA Board approval thereof, could not be provided.

We recommended that CRA procedures be strengthened for contractual services to ensure that invoices provide sufficient detail of the services provided, that services are not rendered until properly authorized, documentation for reimbursable expenses are properly submitted with the payment request, and contract amendments and change orders are documented through written contract amendments, and made part of the CRA's official records.

**Results of Follow-Up Procedures**

*The CRA's actions partially corrected this finding.* Although we found that receipts for reimbursable expenses were submitted with payment requests and contract amendments and change orders were documented, our review of ten contracts disclosed two contracts, in the amounts of \$40,995 and \$97,950, that required "Progress Certification Statements" stating that the work element is complete at least to the percentage shown on the invoice. Although requested, we were not provided such certifications for three payments on these contracts.

*In his response, the Redevelopment Director stated that, "The CRA submitted documentation to the Auditor that verified progress certifications for three payments that were not found during the Auditor's visit." However, the documentation provided did not include the Progress Certification Statements required by the contracts.*

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**Finding No. 20: Boardwalk Mixed-used Project**

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**Previously Reported**

The City awarded a large contract to a developer, the only respondent to a request for qualifications and proposals (RFQP), notwithstanding the fact that the developer failed to provide key elements in its response to the RFQP.

We recommended that the CRA ensure that all required documents are submitted with future RFQP's prior to consideration of awarding contracts. In the event that a sufficient number of responses are not received for future redevelopment projects, we recommended that the City or CRA consider contacting potential respondents to ascertain the reasons why there was little interest, re-bid the project, and consider the benefits of separating larger projects with varied components into smaller projects.

**Results of Follow-Up Procedures**

*The CRA's actions adequately corrected this finding.* Our review of the CRA Board minutes disclosed no discussions of RFPQs during the audit period. Additionally, our review of the competitive selection process did not disclose any instances when an RFPQ was issued. However, our review of the Requests for Proposal (RFPs) issued during the period indicated that responders provided all information requested in the RFPs and the CRA received a sufficient number of responses to its requests.

Other
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**Finding No. 21: Report of Activities****Previously Reported**

The CRA's report of activities for the 2004-05 and 2005-06 fiscal years included only the required financial statements, but did not include nonfinancial information that may be of interest to taxing authorities.

We recommended that the CRA consult with its taxing authorities regarding the nonfinancial information that should be included in the report of activities.

**Results of Follow-Up Procedures**

*The CRA's actions adequately corrected this finding.* Our review of the CRA's 2007-08 fiscal year annual report disclosed that it included the required financial statements and a report of activities as specified in Section 163.356(3)(c), Florida Statutes.

**Finding No. 22: City Internal Auditor****Previously Reported**

The City's Internal Auditor reported to the Finance Director (i.e., management responsible for the activities under review). Additionally, an internal audit of the CRA, issued March 20, 2007, had not been presented to either the City Commission or the CRA Board as of July 31, 2007.

We recommended that the City reorganize the internal audit function so that the Internal Auditor is supervised by, and reports directly to, the City Commission or to an audit committee, comprised of members of the City Commission.

**Results of Follow-Up Procedures**

*The City's actions had not corrected this finding.* Our review of the City's budgets for the 2007-08 and 2008-09 fiscal years disclosed that the Internal Auditor position was re-titled as Manager, Business Planning and Research (Manager), and reported to the Finance Director/Chief Financial Officer. On September 28, 2008, the City Commission adopted City Ordinance No. 08-234, establishing the City's budget for the 2008-09 fiscal year. Section 4 of the Ordinance required City Commission approval, by resolution, of the transfer of any positions between City departments.

On January 21, 2009, the City Manager directed the Human Resources Department to transfer the Manager position from the Finance Department to the Office of the City Manager, and renamed the position Internal Auditor. The Internal Auditor job description stated that the Internal Auditor was to function at the direction of, and report to, the City Manager. In response to our request for the City Commission approved resolution for the transfer, and the Commission meeting minutes evidencing such approval, we were provided a response that stated the City Manager was authorized, under the Daytona Beach City Code, Article IV, Section 2b, to review and amend the City pay schedule. However, that Section of the Code speaks to the Pay Plan, and does not provide for the transfer of positions between City departments.

*In his response, the Redevelopment Director indicated that the City Manager is authorized by City Code to review and amend City positions and job descriptions. However, as noted in the finding, City Ordinance No. 08-234 required approval by the City Commission for transfers of any positions between City*

*departments. The Redevelopment Director also indicated that the change made by the City Manager is supported by comments from the City's external auditor. A letter from the audit firm was attached to his response which stated, "While it is possible to establish an oversight structure that allows the internal audit function to report directly to the City Commission, or an audit committee composed of members of the Commission, it is very difficult to structure and is not always practical, or possible, to achieve." The audit firm went on to say that the suggested structure is further hampered by a number of inherent obstacles, such as the availability of City Commissioners and the potential that meetings would be required to be held publicly. However, as indicated in report No. 2008-036, we noted that an internal audit report had not been presented to the City Commission, which illustrates the need for the Internal Auditor to report to the City Commission or an audit committee rather than to management responsible for the activity or function subject to audit.*

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### OBJECTIVES, SCOPE, AND METHODOLOGY

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The scope of this project included selected actions and transactions taken subsequent to November 2007 to determine the extent to which the CRA has corrected, or is in the process of correcting, deficiencies disclosed in our report No. 2008-036.

The methodology used to develop the findings in this report included the examination of pertinent CRA records, inquiry of CRA personnel, and observation of procedures in practice. This follow-up review was conducted in accordance with applicable generally accepted government auditing standards. Those standards require that we plan and perform the follow-up review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**AUTHORITY**

Pursuant to the provisions of Section 11.45(2)(l), Florida Statutes, I have directed that this report be prepared to present the results of our follow-up procedures regarding findings and recommendations included in report No. 2008-036, operational audit of the Daytona Beach Community Redevelopment Agency for the period October 1, 2004, through March 31, 2007, and selected actions taken prior and subsequent thereto.

A handwritten signature in blue ink, appearing to read "David W. Martin".

David W. Martin, CPA  
Auditor General

**MANAGEMENT'S RESPONSE**

Management's response is included as EXHIBIT A.

**EXHIBIT A**  
**MANAGEMENT'S RESPONSE**



## THE CITY OF DAYTONA BEACH

**Department of Development and Administrative Services**  
**REDEVELOPMENT DIVISION**

POST OFFICE BOX 2451  
DAYTONA BEACH, FLORIDA 32115-2451  
PHONE (386) 671-8180  
Fax (386) 671-8187

October 8, 2009

Mr. David W. Martin, CPA  
Auditor General  
STATE OF FLORIDA  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450


**RE: Daytona Beach Community Redevelopment Agency**  
Report No. 2008-036 – Operational Audit Follow-up

Dear Mr. Martin,

Pursuant to Section 11.45(4)(d), Florida Statutes, we hereby respectfully submit the enclosed written statement of explanation concerning the follow-up report addressing the findings and recommendations included in your follow-up to report No. 2008-036 – Operational Audit of the City of Daytona Beach Community Redevelopment Agency.

We appreciate the opportunity to address the findings of this audit and we will continue to improve our procedures and policies of the CRA in the best interest of our redevelopment areas and the City of Daytona Beach. Please feel free to contact us about any concerns or questions you may have regarding this matter.

Sincerely,

  
\_\_\_\_\_  
Reed A. Berger, AICP  
Redevelopment Director

c. The City of Daytona Beach Community Redevelopment Agency Board Members  
Mayor Glenn Ritchey  
Mr. James Chisholm, City Manager



# Response to CRA Follow-up Audit Preliminary Findings

*October 8, 2009*

## **Introduction**

At the beginning of 2007 Mayor Glenn Ritchey invited the State of Florida Auditor General to conduct an operational audit of the City of Daytona Beach Community Redevelopment Agency (CRA) so that the elected officials and citizens of Daytona Beach could have a better understanding of the Agency's finances and management practices. The audit was initiated in May 2007 and a preliminary report of the State Auditor's findings was released on October 11, 2007. The CRA prepared a response which was sent to the Auditor General's office on November 8, 2007. On November 20, 2007 the Auditor General released his report noting 22 findings that included suggestions for improving the overall management and operations of the CRA. A follow-up audit was initiated in early March, 2009. The Auditor General's office provided a report on September 1, 2009 to follow-up the 22 preliminary and tentative findings provided to the CRA on November 20, 2007.

This follow-up report was based on a review of CRA actions taken over the previous 18 months for corrective measures, and to determine the CRA's progress on each of the 22 findings and recommendations. The Auditor General found the CRA's actions adequately corrected 9 findings, partially corrected 5 findings, had not corrected 6 findings, and took no corrective action on 2 findings. The City of Daytona Beach has thirty days to respond to the September 1, 2009 follow-up report after which the Auditor General will issue a final report.

The Auditor General has not identified any misappropriation of funds or any violations of law. The CRA has taken corrective action in accordance with many of the Auditor's suggestions. The CRA will herein address those findings that the Auditor believes were partially corrected. The CRA has sought the advice and comments from the City Attorney and the City's external auditor with respect to the Auditor General's report and the CRA response. The CRA met on October 7, 2009 and directed that this report be sent to the Auditor General's Office.

## **Statutory Framework**

Chapter 163 Florida Statutes provides and emphasizes broad authority for local governments and CRAs to make appropriate expenditures. Section 163.358 Florida Statutes broadly states, "[e]very county and municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part ...". This expansive grant of authority is repeated verbatim in section 163.370(2), Florida Statutes. Furthermore, section 163.370(2)(1), Florida Statutes, authorizes the City to "appropriate such funds and make such expenditures as are necessary to carry out the purposes of this part ...".

Section 163.387(6) Florida Statute, provides that money in a redevelopment trust fund may be expended for undertakings of the community redevelopment agency as described in the community redevelopment plan, including the following expenditures:

- a) administrative and overhead expenses necessary or incidental to the implementation of the community redevelopment plan; and
- b) development of community policing innovations.

Section 163.340(23), Florida Statute, defines “community policing innovation” as policing techniques to reduce crime by reducing the opportunities for, and increasing the perceived risks of engaging in criminal activity through visible presence of the police in the community, including but not limited to intensified motorized patrol and neighborhood storefront police stations.

Section 163.370(3), Florida Statutes, identifies specific projects that “may not be paid for or financed by increment revenue.” Section 163.370(3), Florida Statute, prohibits CRA funds from being used for the following projects:

- a) construction or expansion of administrative buildings unless approved by the other taxing entities or unless the construction or expansion is contemplated as a community policing innovation;
- b) publicly owned capital improvements scheduled within 3 years of creating the CRA pursuant to an approved capital improvement plan;
- c) general government operating expenses *unrelated* to planning and carrying out the Plan.

Thus, CRA expenditures are valid as long as:

- a) the expenditures are not expressly prohibited by Section 163.370(3) Florida Statutes;
- b) the expenditures are consistent with the statutory goals of redevelopment and eliminating blight;
- c) the expenditures are consistent with the stated goals of the specific redevelopment area plan; and;
- d) the expenditures are not for general government operating expenses or unrelated to the planning and carrying out of a community redevelopment plan.

Based upon this statutory framework the CRA responds to the specific issues raised by the Florida Auditor General as follows.

## Finding No. 1: Use of CRA Funds

The Auditor General's staff noted several expenditures that were alleged to be not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Redevelopment Plans. These expenditures included promotional expenditures, police-related expenditures, electric bills for street lights, and other expenditures. The Auditor recommended that the CRA request reimbursement from the City for the CRA funds that were either not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Plans, and that procedures be adopted to ensure that CRA trust fund expenditures are expressly authorized pursuant to Chapter 163, Part III, Florida Statutes, and CRA Plans.

### CRA Corrective Action

On May 20, 2009, the City reimbursed the CRA \$784,491 of the \$1,174,601 in questioned expenditures identified in the initial audit (report No. 2008-036). Amounts not reimbursed included promotional expenditures of \$307,201 and electric bills in the amount of \$82,909 for decorative street lights purchased and installed by the CRA in the downtown area.

The CRA believes it acted properly when it approved the expenditures not reimbursed by the City for the following reasons:

1. Funds were used in accordance with the CRA budget.
2. Funds were used in accordance with the CRA policies.
3. The funded activities or services were consistent with the goals and policies of the respective redevelopment plans which were amended on October 1, 2008 to further clarify the intent and use of funds.
4. CRA expenditures are not replacing a general fund obligation or service level.

More specifically, the CRA made legitimate expenditures when it assumed responsibility for paying the utility bills for the new decorative streetlights installed in the Downtown CRA which are in addition to existing taller streetlights that are on a separate circuit and whose electric bills are paid by the general fund. Additional lighting downtown improves safety, deters crime, and provides a more attractive place for reinvestment.

During the Auditor's follow-up review of CRA trust fund expenditures, for the period December 2007 through March 2009, the Auditor identified payments to the Daytona Beach Partnership Association and the Main Street Merchant Association for promotion expenses to be potentially unauthorized under Chapter 163 and the CRA plans. Although the CRA provided proper documentation supporting these expenditures, the Auditor found "...there were no provisions in the contracts that related to specific redevelopment projects within the CRA areas." The Auditor introduced a new argument not raised in their original November 2007 report that suggests that promotion expenditures must be tied to specific capital projects described in the Redevelopment Plan. This new theory narrowly defines "promotion" as used in the CRA plans, as a one-time event to celebrate a redevelopment project. This limited and restrictive interpretation is not supported by State law and not required to list detailed specific projects in the Redevelopment Plan.

The State Auditor also objected to \$250,000 provided to the Daytona Beach International Festival (DBIF) pursuant to a loan agreement between the City and DBIF which they claim was not an authorized use of CRA funds. During the summer of 2007 the CRA spent considerable time to address the reasons the CRA should fund the promotion of the London Symphony Orchestra and the other DBIF events as a way to improve the quality of life and attract more visitors to the venues located in the redevelopment areas which sustains existing businesses and increases opportunities for new investment within the redevelopment area.

While the CRA believes the expenditure is consistent with the Downtown and Main Street redevelopment plans, the CRA recognizes the agreement with DBIF was written prior to the Auditor's release of their original findings in November 2007 at which time there was no distinction between the CRA and the City's actions to approve the agreement. Because the City signed the agreement, the City Manager has directed City staff to reimburse \$125,000 to the Downtown Redevelopment Trust Fund and \$125,000 to the Main Street Redevelopment Trust Fund.

The State Auditor also claimed that 9 of 42 CRA trust fund expenditures reviewed were for general operating expenditures of the City which are not authorized uses of CRA funds. The specific five expenditures mentioned by the Auditor include:

1. food/housing (\$20,000) – this was a CRA eligible expenditure for a new innovative and successful program called "Street Teams" that provided food and shelter for the homeless in return for providing full-time maintenance work within the host Redevelopment Area. The new program was reviewed and supported by the Redevelopment Area Board. The funds were issued to the Salvation Army which served as the host agency that coordinated the distribution of funds for food and shelter for those individuals that provided maintenance services for the direct benefit of the Redevelopment Area. The CRA paid for labor, not food and housing.
2. holiday decorations (\$7,670) – this is a traditional CRA expense that would not otherwise be paid by the City.
3. electric bills for street lights (\$2,468) – as stated earlier, the CRA pays for utilities for decorative street lights installed by the CRA to improve the streetscape.
4. pressure washing of street pavers (\$200) – this is an expense related to maintaining streetscape improvements installed by the CRA. This is not a City expense.
5. swimming pool chemicals (\$100) – The Leisure Services Dept. did not have an operating budget for the newly opened Ocean Breakers Park located in the Main Street Redevelopment Area. Therefore, the CRA assumed the costs of maintaining the water quality for the new splash park facility that was partially funded by the CRA together with several grants. This was not a City obligation.

The Auditor also noted CRA trust fund expenditures included journal transfers from the CRA trust fund to other City funds. For the 2008-09 fiscal year, through March 31, 2009, transfers from the CRA trust fund to the general fund totaled \$803,747. These transfers were for police and code enforcement services provided to the redevelopment areas. The Auditor is expressing an opinion that details of an innovative community policing program need to be incorporated into the Redevelopment Plan, not just mentioned as an authorized program. The CRA provided



the policing program to the Auditor. The CRA maintains that the special operations which are all reimbursed to the Police Department as overtime within the CRA are beneficial to the redevelopment area, and are easily documented by the detailed special operations reports which only affect overtime accounts. Furthermore, the enhanced code enforcement services are also described in the Redevelopment Plan and time cards for the staff assigned solely to a specific Redevelopment Area are documented for reimbursement. It is important to note is that the CRA has seen direct evidence in the reduction of crime in the Main Street redevelopment area, especially on the Boardwalk where special officer details paid by CRA funds have created a more visible presence of public safety that is essential to retaining and growing the tourism industry in Florida. Another important improvement in combating crime in the Main Street redevelopment area is the establishment of police sub-stations in the heart of the redevelopment area. CRA funding for community policing in Main Street and Downtown is a proven example of how we create a safer place for visitors and residents. Crime incidents were down 34% in the Main Street CRA vs. 23% in the City between 2002 and 2007.

In summary, it is our understanding that CRA fund expenditures identified by the Auditor General as "not authorized by Chapter 163, Part III, Florida Statutes, or not in accordance with CRA Plans" were budgeted and used for CRA purposes in accordance with State law and local redevelopment plans. We note that Chapter 163, Florida Statutes, provides that the CRA may make expenditures that further the goals of the adopted Redevelopment Plans, including expenditures for operating expenses related to the planning and carrying out of a CRA plan. To that end the CRA relies upon the adopted Redevelopment Plan and annual approved budget for the concurrence and authority to make expenditures that further the goals of the Plan.

An important principle applied to CRA fund expenditures is that the CRA monies not be a substitute for traditional general fund expenditures, but rather be used for "enhanced" or extraordinary operating expenses and capital projects necessary to carry out the goals of the CRA Redevelopment Plan. To that end the CRA underwrites the costs to build and maintain streetscape beautification, parks, and other public amenities together with additional support services and equipment necessary to operate and maintain the improvements. We believe Section 163.370(2), Florida Statutes supports expenditures of CRA funds including the promotion of special events, increased and concentrated police and code enforcement, and other costs directly associated with public improvements increased maintenance funded by the CRA "necessary or convenient to carry out and effectuate the purposes and provisions" of redevelopment.

## **Finding No. 2: Contents of CRA Plans**

The Auditor suggests that CRA Plans were not in sufficient detail to provide for a determination that CRA expenditures were in accordance with the Plans and recommended that the CRA revise its CRA Plans to include sufficient detail to demonstrate that expenditures of the CRA funds are in accordance with Section 163.387(6), Florida Statutes.

The CRA does agree with the idea that where possible the Plans should be clear about the intended use of funds. The CRA amended its Plans on October 1, 2008 to clearly describe its intent of what is authorized to be funded with the understanding that specific details for



programs and projects would be described and documented in accordance with the goals and objectives of the Plan and also described in the budget. Section 163.387(6), Florida Statutes, provides flexibility in terms of how CRA funds are used to carry out the purpose of redevelopment and does not prescribe that the Plans provide any specific detail. This section of the Statutes is provided below.

*“(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the community redevelopment plan for the following purposes, including, **but not limited to:***

- (a) Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.*
- (b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.*
- (c) The acquisition of real property in the redevelopment area.*
- (d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.*
- (e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.*
- (f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.*
- (g) The development of affordable housing within the community redevelopment area.*
- (h) The development of community policing innovations.”*

The Auditor, however, stated that the amended CRA Plans “generally did not include specific planned capital projects to be undertaken or pertinent updates to existing capital projects. For example, the amended Midtown CRA Plan refers to projects with outdated completion dates of 1998, 1999, and the 2001-02 through 2004-05 fiscal years. Also, the amended Main Street CRA Plan includes the replacement of sewer lines, a lift station, and storm drainage system, with the same estimated cost data as was stated in the 1981 Plan. Such information does not provide relevant, current information regarding CRA activities, with current costs, or specific projects under consideration by the CRA Board, which would provide guidance and authorization as to the proper use of CRA funds.”

The CRA agrees that when the Plans are revised it would be helpful to update baseline data if it is relevant to the goals and policies of the Plan. However, the listing of detailed capital projects and their projected costs is a function of the CRA budget and other supplemental documents and is not required by State Statute to be detailed in the Redevelopment Plan. The Auditor failed to recognize the State Statutes requiring detailed information in the Plans is not required of the Downtown and Main Street Redevelopment Plans according to Section 163.362(11), Florida Statutes<sup>1</sup>.

*“163.362 Contents of community redevelopment plan.--Every community redevelopment plan shall:*

*(4) Identify specifically any publicly funded capital projects to be undertaken within the community redevelopment area.*

*(11) Subsections (1), (3), (4), and (8), as amended by s. 10, chapter 84-356, Laws of Florida, and subsections (9) and (10) do not apply to any governing body of a county or municipality or to a community redevelopment agency if such governing body has approved and adopted a community redevelopment plan pursuant to s. 163.360 before chapter 84-356 became a law; nor do they apply to any governing body of a county or municipality or to a community redevelopment agency if such governing body or agency has adopted an ordinance or resolution authorizing the issuance of any bonds, notes, or other forms of indebtedness to which is pledged increment revenues pursuant only to a community redevelopment plan as approved and adopted before chapter 84-356 became a law.”*

## **Finding No. 7: Tax Increment Funding**

The Auditor found that the CRA did not use the appropriate property values to calculate tax increment revenues due from the Downtown Development Authority (DDA). The CRA determined that the wrong boundary was being used by the Volusia County Property Appraiser to determine the DDA value and requested the Appraiser to provide the correct values for the DDA (see attached letter).

## **Finding No. 9: Late Tax Increment Payments**

The Auditor noted that amounts due to the CRA from Volusia County for late tax increment contributions did not include an additional five percent late remittance amount of \$109,245, and that the use of offset amounts based on in-kind services provided by the County within the Main Street CRA did not provide CRA benefits.

The CRA provided detailed documentation describing services provided to the CRA from the County. However, the Auditor does not agree the CRA was the beneficiary. Therefore, the CRA will request that the County pay the amount of \$109,245 as noted in the Auditor General's report.

## **Finding No. 10: Investment of CRA Funds**

Based on the Auditor's recommendation the CRA strengthened its receipt depositing procedures to ensure that deposits are made timely to reduce the risk of loss and maximize interest earnings. The CRA receipts were timely deposited in the City's bank account.

The City also discontinued the practice of placing CRA capital projects in the general fund. The CRA capital projects are in the CRA Fund budget and interest from these funds is credited on a monthly basis to the respective CRA trust fund.

## **Finding No. 11: CRA Salary Expenses**

The CRA provided the Auditor with the Redevelopment Expenditures Policy & Procedures manual created by the Finance Department in response to the original Audit findings. The Policy provides that timesheets are to be completed based upon the time spent working in or for a particular CRA redevelopment area. The CRA provided copies of redevelopment employee timesheets from July 2009 wherein the employees' recorded time was charged to the various redevelopment areas. The Redevelopment staff continues to use the new detailed timesheets to document a more accurate allocation of hours charged to each CRA.

## **Finding No. 13: Severance Pay**

The CRA provided a letter dated March 19, 2009 to the Auditor, sent to the former redevelopment director, which requested repayment. The returned delivery confirmation receipt stated that the letter was undeliverable and could not be forwarded.

The attached memorandum from the City's Deputy City Attorney supports the City's policy with respect to termination and compensation of terminated employees.

## **Finding No. 14: Fringe Benefits**

The CRA provided the Auditor with City policies which does not require documentation of records supporting the amount charged for vehicle allowances and cellular telephone stipends required to conduct CRA business.

## **Finding No. 15: Disbursements Processing**

The CRA has adopted the policies of the City and added additional policies to ensure CRA funds are properly used in accordance with best practices of municipal governments. For example, all expenditures over \$5,000 are required to have a Use of Funds form completed and signed by the Redevelopment Director **in addition to** assuring requisitions and purchase orders are used to document the approval of purchases prior to incurring an obligation for payment.

CRA policies do not require that invoices be canceled or marked as paid, or acceptance of goods or services be documented. However, the CRA does plan to revise its new procedures to clarify which personnel can approve the expenditure of funds.

The Auditor noted two disbursements where the requisition and purchase order were issued on the same date as the related invoice. These two cases involved Redevelopment staff expediting façade grant payments on the same day to meet an urgent request of the grant applicants where all invoices were provided as a part of the grant requirement.

## **Finding No. 16: Contributions to Other Entities**

The CRA provides for written agreements to assist with monitoring and assuring CRA Trust Funds are properly utilized for their intended purpose. For example, the CRA approved an agreement in 2008 with the Downtown Development Authority to clarify how funds should be spent, primarily for the purpose of underwriting the Main Street program administered by the Daytona Business Partnership Association.

The CRA also has traditionally supported the Pinewood Cemetery Association, a nonprofit entity, to maintain a historic site that is open to the public and attracts tourists in the heart of the Main Street redevelopment area. The CRA receives receipts from the Association to verify work that maintains the grounds. The CRA also funded the new pilot Street Teams program that employs the homeless to provide maintenance services within the redevelopment area. Because these programs are funded at or below \$25,000 CRA policy does not require the funding to be approved by the CRA Board. That said, the CRA will assure there are written agreements where CRA funds are provided to these non-profit entities should they seek further funding from the CRA.

## **Finding No. 18: Competitive Selection Procedures**

The Auditor claims the CRA does not follow State government's purchasing practices such as maintaining date and time stamped bid envelopes for bid openings or keeping records of who was on the selection team. City policies and procedures adopted by the CRA do not require this type of detailed documentation to be maintained.

## **Finding No. 19: Contractual Services**

The CRA assures that receipts for reimbursable expenses are submitted with payment requests and contract amendments and change orders are documented. The CRA submitted documentation to the Auditor that verified progress certifications for three payments that were not found during the Auditor's visit.

## **Finding No. 22: City Internal Auditor**

The City changed the Internal Auditor position to that of Business Planning and Research Manager, which reports to the Finance Director/Chief Financial Officer. The City Manager is authorized, under the Daytona Beach City Code, Article IV, Section 2b, to review and amend the City position and job description. This change is supported by comments provided in the attached letter from the City's external audit firm of Brent Millikan & Company.

## **Conclusion**

The CRA believes the comprehensive operational audit has been very beneficial to understanding and improving the management of the CRA. The CRA believes it has materially complied with the Audit findings for the funds and programs it is responsible for managing. And finally, the CRA believes it has addressed all the Auditor General's comments with the understanding that differences of opinion remain with respect to the interpretation of State law and best management practices of Community Redevelopment Agencies.



## Footnote for The City of Daytona Beach CRA Audit Response

**Footnote #1 - "163.362 Contents of community redevelopment plan.**—Every community redevelopment plan shall:

- (1) *Contain a legal description of the boundaries of the community redevelopment area and the reasons for establishing such boundaries shown in the plan.*
- (2) *Show by diagram and in general terms:*
  - (a) *The approximate amount of open space to be provided and the street layout.*
  - (b) *Limitations on the type, size, height, number, and proposed use of buildings.*
  - (c) *The approximate number of dwelling units.*
  - (d) *Such property as is intended for use as public parks, recreation areas, streets, public utilities, and public improvements of any nature.*
- (3) *If the redevelopment area contains low or moderate income housing, contain a neighborhood impact element which describes in detail the impact of the redevelopment upon the residents of the redevelopment area and the surrounding areas in terms of relocation, traffic circulation, environmental quality, availability of community facilities and services, effect on school population, and other matters affecting the physical and social quality of the neighborhood.*
- (4) *Identify specifically any publicly funded capital projects to be undertaken within the community redevelopment area.*
- (5) *Contain adequate safeguards that the work of redevelopment will be carried out pursuant to the plan.*
- (6) *Provide for the retention of controls and the establishment of any restrictions or covenants running with land sold or leased for private use for such periods of time and under such conditions as the governing body deems necessary to effectuate the purposes of this part.*
- (7) *Provide assurances that there will be replacement housing for the relocation of persons temporarily or permanently displaced from housing facilities within the community redevelopment area.*
- (8) *Provide an element of residential use in the redevelopment area if such use exists in the area prior to the adoption of the plan or if the plan is intended to remedy a shortage of housing affordable to residents of low or moderate income, including the elderly, or if the plan is not intended to remedy such shortage, the reasons therefor.*
- (9) *Contain a detailed statement of the projected costs of the redevelopment, including the amount to be expended on publicly funded capital projects in the community redevelopment area and any indebtedness of the community redevelopment agency, the county, or the municipality proposed to be incurred for such redevelopment if such indebtedness is to be repaid with increment revenues.*



*(10) Provide a time certain for completing all redevelopment financed by increment revenues. Such time certain shall occur no later than 30 years after the fiscal year in which the plan is approved, adopted, or amended pursuant to s. 163.361(1). However, for any agency created after July 1, 2002, the time certain for completing all redevelopment financed by increment revenues must occur within 40 years after the fiscal year in which the plan is approved or adopted.*

*(11) Subsections (1), (3), (4), and (8), as amended by s. 10, chapter 84-356, Laws of Florida, and subsections (9) and (10) do not apply to any governing body of a county or municipality or to a community redevelopment agency if such governing body has approved and adopted a community redevelopment plan pursuant to s. 163.360 before chapter 84-356 became a law; nor do they apply to any governing body of a county or municipality or to a community redevelopment agency if such governing body or agency has adopted an ordinance or resolution authorizing the issuance of any bonds, notes, or other forms of indebtedness to which is pledged increment revenues pursuant only to a community redevelopment plan as approved and adopted before chapter 84-356 became a law."*



September 4, 2009

Morgan B. Gilreath Jr.  
Property Appraiser  
Volusia County  
123 W. Indiana Ave.  
Deland, FL 32720

**Re: Downtown Development Authority  
Request to Correct Taxable Value**

Dear Mr. Gilreath:

The Auditor General of the State of Florida recently performed an operational audit of the Daytona Beach Community Redevelopment Agency. One of the General Auditor's findings was that the incorrect property values were used to calculate the tax increment revenue payable from the Downtown Development Authority (DDA) to the Daytona Beach Downtown Redevelopment Trust. The property value provided on Form DR-420TIF should be the value of the DDA, not the entire Downtown Redevelopment Area. The DDA and the Downtown Redevelopment Area have different boundaries (see attached map). Therefore, the property values should be different.

On behalf of the Daytona Beach Downtown Development Authority, I am requesting the taxable value used to calculate the increment revenue owed to the Downtown Redevelopment Trust from the Downtown Development Authority be changed. Form DR-420TIF line (1) should be the taxable value of real property for operating purposes of the Downtown Development Authority (line (1) Form DR-420) or \$109,747,022 for 2009 and line (2) Base year taxable value should be \$44,807,820.

Making this change will align our TRIM notice with our tax increment calculation. If you have any questions or need more information, please contact me at (386) 671-8188.

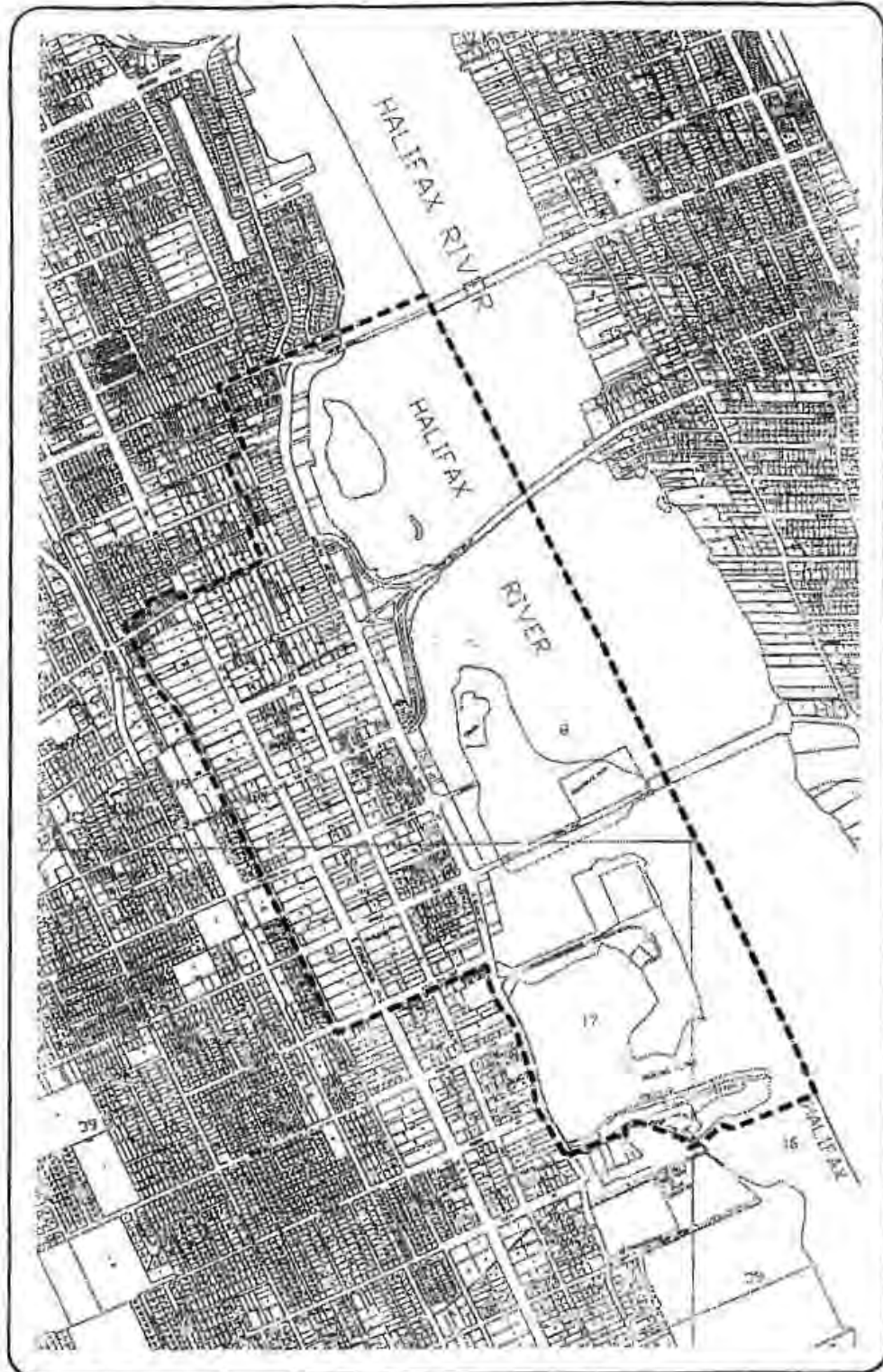
Sincerely,

  
Reed Berger, AICP  
Redevelopment Director

cc: Michael Robertson, Finance Director  
Robert Abraham, Downtown Development Authority C

Enclosures

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent To <u>Morgan B. Gilreath Jr.</u> <u>County of Volusia</u> Street, Apt. No., or PO Box No. <u>123 W. Indiana Ave.</u> City, State, ZIP+4® <u>Deland, FL 32720</u>	
PS Form 3800, June 2002 See Reverse for Instructions	



THE CITY OF DAYTONA BEACH  
ENGINEERING DIVISION



DOWNTOWN DEVELOPMENT  
AUTHORITY AREA  
SKETCH OF LEGAL

Drawing Date: 02-11-09
Drawn By: K. Ray
Checked By: K. Ray
Scale: 1"=100'
Project No: 070
File Name: Downtown.dwg

L X R

# Redevelopment Expenditures Policy & Procedures

Approved March 4, 2009



<b>Redevelopment Department Expenditures Policy &amp; Procedures</b>	
<b>DATED:</b> March 4, 2009	<b>Page Number:</b> 1 of 5
<b>Subject:</b> Expenditure Documentation and Approval Process	<b>APPROVED BY:</b>

### **INTRODUCTION**

It is the policy of the City to spend Tax Increment Funds in accordance with Florida Statute 163.387 and the Redevelopment Plans as adopted by the CRA Board (see attachment #1). This policy is enacted to provide an approval and documentation process for all redevelopment expenditures. The following procedures are required for all uses of redevelopment funds:

1. **Payroll – Police services provided by the City will be based on documented overtime for special operations that conform to the CRA’s Redevelopment Plans. All other employees will use time sheets or time cards to document actual time worked in each redevelopment area every week. A copy of all time cards and time sheets charged to Redevelopment Funds must be forwarded to the Redevelopment Department for review and approval to insure conformance with Redevelopment Plans and Florida Statutes.**

#### **Police**

- **Police officers will only charge overtime for special operations performed in redevelopment areas.**
- **Time cards and Special Operations Action Plans will be used to document overtime. Special Operations Action Plans will provide detailed explanations for the type of work performed and attach the respective time cards supporting the operation time.**
- **Overtime charged to redevelopment areas will conform to community policing as defined in the Redevelopment Plans and the Florida Statutes 163.387.**
- **Hours worked shall be allocated to the proper Redevelopment cost center, which will be accounted for in the General Fund. The City will utilize “Transfers” to charge the CRA for services rendered.**
- **A copy of the overtime card and Special Operations Action Plans will be sent to the Redevelopment department. The Redevelopment Director or his/her designee shall review the time cards and Special Operations Action Plans to insure conformance with the Redevelopment Plan and Florida Statutes 163.387.**
- **The Redevelopment Department shall store all time cards and Special Operations Action Plans in separate folders for each redevelopment area. Time cards and Special Operations Action Plans shall be retained in accordance with the State retention policy.**



<b>Redevelopment Department Expenditures Policy &amp; Procedures</b>	
<b>DATED:</b> March 4, 2009	<b>Page Number:</b> 2 of 5
<b>Subject:</b> Expenditure Documentation and Approval Process	<b>APPROVED BY:</b>

[Payroll Cont'd)

**All Other Employees**

- A time sheet or time card (see attachment #2) must be completed at the end of each workweek indicating the actual amount of time worked in each redevelopment area. The time sheet can be found on the "O" drive server under the folder CRA Forms.
- All hours worked in Redevelopment Funds will conform to established Redevelopment Plans and Florida Statutes 163.387.
- Hours worked shall be allocated to the proper Redevelopment Fund and cost center for your department. Note: Code Enforcement will charge their actual time to CRA descriptive cost centers in the General Fund. Actual documented Code Enforcement cost will be charged back to the CRA through "Transfers" for services rendered, similar to Police services.
- Upon completion of entering the weekly payroll information, the department payroll clerk will make a copy of all time sheets/time cards using redevelopment funds and forward a copy to the Redevelopment Department.
- The Redevelopment Director or his/her designee shall review the time sheets/time cards to insure conformance with the Redevelopment Plan and Florida Statutes 163.387.
- The Redevelopment Department shall store all time sheets in separate folders for each redevelopment area. Time sheets shall be retained in accordance with the State retention policy.

<b>Redevelopment Department Expenditures Policy &amp; Procedures</b>	
<b>DATED:</b> March 4, 2009	<b>Page Number:</b> 3 of 5
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2. Claims (Accounts Payables) – All accounts payable charges to Redevelopment Funds will be reviewed to insure conformance with the Redevelopment Plan and Florida Statutes 163.387. An approval form must be completed for all claims over \$5,000 and a cursory review for all claims less than \$5,000.

Purchases \$0 - \$4,999

- Purchases will follow the City's purchasing and payment policy and procedures for the product or services acquired.
- A copy of the claim, invoice, and purchase order (if applicable) will be sent to the Redevelopment Department. The Redevelopment Director or his/her designee shall review all expenditures \$0 - \$4,999 to insure conformance with the Redevelopment Plan and Florida Statutes 163.387.
- Any claims not in compliance with Redevelopment Plans and Florida Statutes 163.387 will be journalized to an applicable non CRA fund.
- The Redevelopment Department shall store claims, invoices, and purchase orders in separate folders for each redevelopment area. Claims, invoices, and purchase orders shall be retained in accordance with the State retention policy.

Purchases \$5000 - \$24,999

- Print a copy of the "Use of CRA Funds Application" form (see attachment #3). The form can be found on the "O" drive server under the folder CRA Forms.
- Complete the top portion of the form. Attach supporting documents when needed to explain details of the project.
- Once the form is filled out (legible handwritten is permitted), it shall be forwarded to the Redevelopment Director or his/her designee who will complete the form and determine if the request is approved or denied. A copy of the completed form will be returned to the Department for their records with the original application remaining in the Redevelopment Office.
- Departments with approved request will then follow the City's purchasing and payment policy and procedures for the product or services acquired.

<b>Redevelopment Department Expenditures Policy &amp; Procedures</b>	
<b>DATED:</b> March 4, 2009	<b>Page Number:</b> 4 of 5
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(Claims Cont'd)

- A copy of the claim, invoice, use of CRA Funds Application, and respective purchase order (if applicable) will be forwarded to the Redevelopment department for their files.

**Purchases Greater Than \$25,000**

- Any proposed expenditure of CRA funds exceeding the \$25,000 limit will require a copy of the approved use of CRA Funds Application be included in the Request for CRA Action (agenda package). See procedures above.
- Upon approval of the purchase by the CRA Board, The department will follow the city's Procurement process (RFP / Bids) for purchases greater than \$25,000. A copy of all Bid/RFP documentation will be forwarded to the redevelopment department.
- Upon payment for the product or services, a copy of the invoice, purchase order, and use of CRA Funds Application will be forwarded to the Redevelopment Department for their files.

The Redevelopment Department shall store a copy of all claims and related documentation in separate folders for each redevelopment area. Claims and related documentation shall be retained in accordance with the State retention policy

<b>Redevelopment Department Expenditures Policy &amp; Procedures</b>	
<b>DATED:</b> March 4, 2009	<b>Page Number:</b> 5 of 5
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**3. Journal Entries** are used to correct errors, transfer funds for debt service, capital project, or other operating cost (services rendered for Police and Code Enforcement), which benefit the redevelopment area. All journal entries shall be approved by the Redevelopment Director or his/her designee to insure conformance to the Redevelopment Plan and Florida Statutes 163.387:

- Upon completion of a journal entry charged to the Redevelopment funds, a copy will be provided to the respective Finance Department Liaison for their review.
- Each journal entry will include a memo of explanation and/or adequate justification on the journal entry form itself.
- The Finance Department Liaison will review the journal entry to insure correct account codes, budgetary compliance, and adequate description/justification is provided.
- Upon completion of review by the Finance Department Liaison, the journal entry will be initialed and forwarded to the Redevelopment Department for their review and approval to insure conformance with Redevelopment Plan and Florida Statutes 163.387.
- The Redevelopment Department shall store all journal entries in separate folders for each redevelopment area. Journal entries shall be retained in accordance with the State retention policy.

**MARIE HARTMAN**  
**CITY ATTORNEY**  
Board certified in  
City, County & Local  
Government Law

**OFFICE OF THE**  
**CITY ATTORNEY**  
**THE CITY OF DAYTONA BEACH**

**ANTHONY E. JACKSON**  
Assistant City Attorney  
Police Legal Advisor

**BENJAMIN S. GROSS**  
Assistant City Attorney

**ROBERT JAGGER**  
Deputy City Attorney

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301 South Ridgewood Avenue, Suite 220, Daytona Beach, FL 32114  
Mailing address: P.O. Box 2451, Daytona Beach, FL 32115  
Telephone: (386) 671-8040 Facsimile: (386) 671-8049

**CARRIE E. LATHAN**  
Assistant City Attorney

**MEMORANDUM**

**TO:** Bob Goldberg  
**FROM:** Robert Jagger, Deputy City Attorney  
**DATE:** May 22, 2009  
**RE:** Bargained for Severance Pay

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Per your request, this memo is in response to your question as to whether the City can agree to an employee severance package upon resignation in lieu of termination. The City's Personnel Ordinance, Chapter 70, does not expressly provide for, nor prohibit, bargained for severance pay upon resignation from the City. Florida case law does however approve employee severance agreements as a traditional and important tool for resolving municipal employment disputes.

The case of Brown v. Jacksonville, 696 So.2d 946 (1<sup>st</sup> Dist, 1997), approved a negotiated retirement/severance agreement on the basis that the parties had the right to amend an employment contract where the employee was still rendering services on the date of the bargained for severance agreement. The Court noted that because the negotiated agreement was entered into prior to resignation, such agreements do not violate Sec. 215.425 Fla. Stat., prohibiting extra compensation to an employee after the service has been rendered. In addition, Speciale v. Boca Raton, 613 So.2d 1387 (4<sup>th</sup> Dist, 1993), provides that termination agreements are an important tool in allowing a municipality some latitude in making personnel decisions and should be upheld.

Bargained for employee severance packages during the term of employment therefore do not violate the City Code, nor are they prohibited by Florida Law.

Please let me know if you have any questions.

**BRENT MILLIKAN & COMPANY, P.A.**  
CERTIFIED PUBLIC ACCOUNTANTS

August 28, 2009

James V. Chisholm  
City Manager  
The City of Daytona Beach  
P. O. Box 2451  
Daytona Beach, FL 32115-2451

Re: Audit Comments on Internal Audit Function

Dear Mr. Chisholm:

In previous years, the City created a formal position for an Internal Auditor, whose initial job responsibilities were managed by the Finance Department. At the conclusion of our audit of the City's 2008 financial statements, our firm recommended that the City should consider reclassifying the role of an independent internal auditor. At that time, our recommendation was based exclusively on our understanding of the City's continuing need to enhance management's required fiscal monitoring of the City's internal controls and its related control environment. We also recognized that a similar recommendation had been made by the City's Budget Review Committee (an appointed group of independent local business leaders) in August 2008.

In our audit recommendation, we suggested that the internal audit function should be completely independent of all operating departments to enable it to be fully functional and independent of any related oversight responsibilities. We believe that this can be substantially mitigated with the transfer of the oversight role from the Finance branch to the Executive branch of the City.

In a previous communication from the Florida Auditor General (dated November 20, 2007), his office stated that "good internal control dictates that proper monitoring of an organization's operations is enhanced when the individual performing internal audits is not supervised by, and does not report to, management responsible for the activities under review." The report also specifically mentioned that the Institute of Internal Auditors has developed various practice standards, including Attribute Standard 1110, which states that the chief audit executive should report to a level within the organization that allows the internal audit activity to fulfill its responsibilities. The Standard also states that the internal audit activity should be free from interference in determining the scope of internal auditing, performing work, and communicating results.

While it is possible to establish an oversight structure that allows the internal audit function to report directly to the City Commission, or an audit committee composed of members of the Commission, it is very difficult to structure and is not always practical, or possible, to achieve. Quite honestly, this type of operational structure is further hampered by a number of other inherent obstacles. (1) The City Commissioners do not have full-time positions, they are not always available, and they do not serve onsite on a full-time basis; and (2) more importantly, virtually all potential meetings to discuss any and all matters, regardless of their sensitivity, are required to be publicly noticed in advance, and subsequently



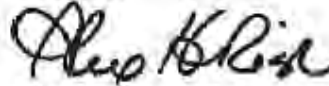
James V. Chisholm  
City Manager  
The City of Daytona Beach  
August 28, 2009  
Page 2

conducted in open-to-the-public sessions. These are very real limitations that significantly contribute to material reductions in the overall effectiveness of the internal audit function in a government setting.

In lieu of placing the internal audit function under legislative control, we believe it can effectively operate through executive branch oversight and continue to fulfill its responsibilities. While we understand that similar limitations exist, we believe that this is the most practical way to approach a workable solution that allows the conduct of the internal audit function to be segregated from all other City departments.

As always, it is a sincere pleasure to work with you and the City of Daytona Beach. If you have any other questions or comments, please feel free to contact me at your earliest convenience.

Sincerely,



Alex H. Kish, CPA  
Engagement Principal