

Draft for ECCSC Mtg. of January 12, 2010

CHAPTER  
House Bill No.

An act relating to the City of Pensacola, the Town of Century and Escambia County; creating the Consolidated Government of Pensacola, Century and Escambia County and providing the charter therefor; providing for general and urban services districts; providing legislative and executive branches, providing for the organization, powers, duties, and functions thereof, and providing a method for removal from office and filling of vacancies in office; providing for a consolidated utilities Authority, an economic development commission and a merit system protection system and board; providing for the office of Independent Budget Analyst; providing for financial matters and addressing bonded indebtedness of former governments; providing election procedures; establishing a charter revision commission; providing for amendment to the charter by voter initiative and referendum; providing for proposal and reconsideration of ordinances by voter initiative and referendum; providing for pension plans, personnel matters and equal opportunity for all; providing for the transition of present governmental functions to the Consolidated Government; providing for a referendum to be held at a special election to ratify the charter, providing for effective dates and contingent repeal of this act.

Be It Enacted by the Legislature of the State of Florida:

Section 1. The charter for the Consolidated Government of Pensacola, Century and Escambia County is created to read:

**PREAMBLE**

We, the electors of Escambia County, the Town of Century, and the City of Pensacola, Florida, in order to promote, maintain and better provide for the general welfare, improve government by attracting visionary leaders to public service and assure governmental transparency and full accountability, improve the effectiveness of government services by eliminating unnecessary duplications and leveraging economies of scale, improve job opportunities by unifying economic development efforts and improve the environment and beauty of the county by broader and better coordinated planning, do hereby approve the following charter for the Consolidated Government.

## **ARTICLE I**

### **GENERAL PROVISIONS**

#### **Section 1.01 Establishment of Consolidated Government.**

The governments of the City of Pensacola, a municipal corporation created by chapter \_\_\_\_\_, Laws of Florida, \_\_\_\_ and amendments thereto, the Town of Century, a municipal corporation created by chapter \_\_\_\_\_, Laws of Florida, \_\_\_\_\_ and amendments thereto, and Escambia County, a political subdivision of the State of Florida, are hereby consolidated into a single body politic and corporate pursuant to the power granted by Article VIII, Section 3, of the Constitution of the State of Florida. The Consolidated Government shall have perpetual existence and shall have only such officers, departments, and other agencies as are provided in this charter or as may be established by the Council for the Consolidated Government.

#### **Section 1.02 Name.**

The name of the Consolidated Government shall be "The Consolidated Government of Pensacola, Century, and Escambia County," (herein called "Consolidated Government"); provided the Council may adopt a shorter name for common usage. In the event the electors of either the City of Pensacola or the Town of Century reject this consolidated charter, the name of the rejecting municipality shall be automatically deleted.

#### **Section 1.03 Succession.**

Except as otherwise provided herein, the Consolidated Government hereby created without other transfer shall succeed to and possess all the properties, rights, capacities, privileges, powers, franchises, and immunities, and be subject to all of the liabilities, obligations, and duties of the former governments. The Consolidated Government shall constitute a city and a county, or either of them. If laws applicable to cities and counties conflict in any respect, the Council, by ordinance, shall determine whether the Consolidated Government shall be considered a city or a county in respect to such conflicting law, and may determine in any instance that an urban services district shall be considered a city and the general services district shall be considered a county.

#### **Section 1.04 Territory.**

Except as limited in Section 1.06 hereof, the Consolidated Government shall have jurisdiction and extend territorially throughout the present limits of Escambia County.

#### **Section 1.05 Definitions.**

For purposes of this charter, the following definitions of terms shall apply:

**A.** “*Centralized Services*” means services provided by the Consolidated Government relating to procurement, information technology and communication, human resources, legal, accounting, auditing, and financial matters.

**B.** “*Consolidated Government*” means the consolidation of the government of Escambia County with either, or both, the City of Pensacola and the Town of Century into a single government which may exercise any and all powers of the county and the municipalities.

**C.** “*Former Governments*” means the governments of Escambia County, the City of Pensacola, the Town of Century and all authorities, Councils, boards, districts, commissions or other political entities under Consolidated Government, whether created by municipal ordinance, county ordinance or special act.

**D.** “*General Fire Services*” means those fire services, as defined and enumerated by ordinance of the Council for the Consolidated Government, which shall be provided within the General Services District.

**E.** “*General Law Enforcement Services*” means those law enforcement services, as defined and enumerated by ordinance of the Council for the Consolidated Government, which shall be provided within the General Services District.

**F.** “*Separate municipality*” means any of the following municipal governments which do not elect to become a part of the Consolidated Government:

1. City of Pensacola;
2. Town of Century, or
3. Any municipality created after the effective date of this charter.

**G.** “*Service Districts*” include both general and urban services districts. All of the territory within Escambia County shall constitute the General Services District. Urban service districts shall be established in accordance with the requirements of this charter.

**H.** “*Urban Area*” means any area containing a population of at least one thousand people per square mile and may include contiguous areas with a population of at least 500 people per square mile.

**I.** “*Urban Fire Services*” means those fire services provided within an urban services district in addition to general fire services. Urban fire services shall be defined and enumerated by ordinance of the Council for Consolidated Government.

**J.** “*Urban Law Enforcement Services*” means those law enforcement services provided within an urban services district in addition to general law enforcement services. Urban law enforcement services shall be defined and enumerated by ordinance of the Council for the Consolidated Government.

### **Section 1.06. Separate Municipalities.**

The relationship of a separate municipality with the Consolidated Government shall be as if the Consolidated Government were a non-charter county. Municipal ordinances shall prevail over ordinances of the Consolidated Government to the extent of any conflict. Each separate municipality shall continue, pursuant to its respective municipal charter, to have and exercise all the rights and powers of local self-government provided for municipalities under the Constitution and the laws of the State of Florida including the right to annex contiguous territory. Each separate municipality shall have the right to enter into the Consolidated Government as an additional urban services district as provided in Section 3.02 B, of this charter.

## **ARTICLE II**

### **POWERS OF THE CONSOLIDATED GOVERNMENT**

#### **Section 2.01. General Powers.**

The Consolidated Government, except as limited in Section 1.06 of this charter, shall have any and all powers of local self-government and home rule prescribed by the Constitution and laws of the State of Florida to counties and municipalities.

The powers of the Consolidated Government shall be divided between the legislative and executive branches. No person or body properly belonging to one branch shall exercise any powers of another branch except as expressly provided by this charter.

#### **Section 2.03. Construction.**

The powers of the Consolidated Government shall be construed liberally in favor of the Consolidated Government. The specific mention, or failure to mention, particular powers in this charter shall not be construed as limiting in any way the general powers of the Consolidated Government as stated in this article.

## **ARTICLE III**

### **GENERAL & URBAN SERVICE DISTRICTS**

#### **Section 3.01. Establishment of General Services District (GSD).**

There shall be a single, countywide general services district encompassing all areas of Escambia County, including areas within separate municipalities, which shall be known as the General Services District (GSD).

#### **Section 3.02. Establishment of Urban Services Districts.**

**A.** When the Council determines from time to time that an area of the General Services District not included in an urban services district and not within the corporate boundaries of a separate municipality, receives or needs additional services or levels of services beyond those provided within the General Services District (GSD), the Council, by ordinance enacted by the approving vote of no fewer than six (6) of its members, shall establish such area either as an additional, distinct urban services district or as an expanded part of an existing urban services district. Such additional services or levels of services must be provided within such area within a reasonable time not to exceed two (2) years. Failure of the Consolidated Government to provide such services within this time shall require the Council to enact, by majority vote of the Council members present, an ordinance repealing the ordinance which created or expanded the urban services district and to credit the taxpayers within said district or district- expansion area for those urban services paid for but not provided within that period.

**B.** Separate Municipalities. Any separate municipality may provide by ordinance for an election within such separate municipality proposing that such separate municipality shall be abolished and merged with the Consolidated Government and become either a new and distinct urban services district or an expanded part of an existing urban services district, as provided herein, which proposal shall become effective upon a majority vote of the qualified electors of such separate municipality voting in such election.

C. Contraction of Urban Services Districts. Except as otherwise provided herein, the Council, by ordinance enacted by majority vote of the full membership of the Council, may contract an established urban services district to remove portions of the district that do not need or receive additional services or levels of services beyond those provided in the general services district( GSD).

D. Creation of Sub-districts. If and when the Council determines from time to time that different portions of an existing urban services district need different levels of services, and that the different levels of services should be funded by different rates of taxation, the Council may divide the existing urban services district into two or more sub-districts, by ordinance enacted by affirmative vote of no fewer than six (6) of its members, and thereafter may adopt separate millage rates within the sub-districts for the purpose of levying taxes sufficient to provide the desired different levels of services. For purposes of the levy of ad valorem taxes under Section 3.05, no property shall be subject to more than one ad valorem tax for municipal purposes. Therefore, boundaries of urban services districts may not overlap.

### **Section 3.03. Services in the General Services District.**

The Consolidated Government shall provide the following governmental services throughout the GSD: airport, seaport, agricultural agent, courts, general fire services, emergency medical services, health, library, general law enforcement services, recreation and parks, streets and highways, traffic engineering, and welfare services. The foregoing list of services is not intended to limit the right of Consolidated Government to perform other governmental services within the GSD.

### **Section 3.04. Services in the Urban Services District.**

In addition to the services provided in the GSD, the Consolidated Government shall furnish the following additional services within urban services districts: enhanced fire services, enhanced law enforcement services, street lighting, street cleaning, and other municipal services. The foregoing list is not intended to limit the right of the Consolidated Government to perform other governmental services within urban services districts.

### **Section 3.05. Ad Valorem Property Taxation Provisions.**

A. General Services District. As authorized by Article VII, Section 9 of the state constitution, the Consolidated Government may levy an ad valorem tax for county purposes. For the purposes of Section 2 of Article VII of the state

constitution, the taxing unit in which the ad valorem tax for county purposes may be levied shall be the General Services District (GSD). The millage rate shall be proposed by the Mayor and adopted by the Council within the ten-mill limitation for county purposes contained in subsection 9(b) of Article VII of the state constitution and shall otherwise be subject to all requirements and restrictions of general law.

**B. Urban Services Districts.** As authorized by Article VII, Section 9 of the state constitution, the Consolidated Government may levy ad valorem taxes for municipal purpose. For purposes of Section 2 of Article VII of the state constitution, the taxing units in which the ad valorem tax for municipal purposes may be levied shall be the urban services districts. The millage rates for each urban services district shall be proposed by the Mayor and adopted by the Council within the ten-mill limitation for municipal purposes contained in subsection 9(b) of Article VII of the state constitution and shall otherwise be subject to all requirements and restrictions of general law.

**C. Required Reduction in Ad Valorem Property Rates.** Whenever possible, Consolidated Government shall lower ad valorem rates to reflect any new or unanticipated revenue sources to the extent permitted by the Constitution and laws of the State of Florida.

### **Section 3.06. Homestead Law.**

Notwithstanding Section 1.03, for purposes of the exemption from forced sale for homesteads pursuant to Article X, Section 4 of the state constitution, an urban services district shall be considered a municipality.

## **ARTICLE IV**

### **MAYOR-COUNCIL FORM OF GOVERNMENT**

**Section 4.01.** The Consolidated Government shall operate under a Mayor-Council form of government consisting of the Executive Branch and the Legislative Branch.

**Section 4.02. Executive Branch.** The Executive Branch shall consist of a Mayor, a Chief Administrative Officer and the General Counsel and their related staff offices and employees.

**Section 4.03. Legislative Branch.** The Legislative Branch shall consist of a Council which shall be the governing body of the Consolidated Government, as well as a Council Secretary and an Internal Auditor and their related staff offices and employees.

## **ARTICLE V EXECUTIVE BRANCH**

### **THE MAYOR, THE CHIEF ADMINISTRATIVE OFFICER AND THE GENERAL COUNSEL**

#### **Section 5.01. Mayor.**

The Mayor shall be a resident and a qualified elector of Escambia County for at least 365 consecutive days immediately prior to the date on which he or she qualifies to run for the office of mayor. If the Mayor ceases to possess any such qualifications during his or her term of office, the Mayor shall forfeit the office. Such forfeiture shall be deemed to have created a vacancy in the office of mayor, which shall be filled in accordance with the provisions of Section 5.07 of this charter.

#### **Section 5.02. Method of Election and Term.**

Subsequent to the initial election held pursuant to Section 13.01 of this charter, the Mayor shall be elected at-large for a term of 4 years, limited to three (3) consecutive, full terms, beginning on the first Tuesday after election and continuing until a successor is elected and qualified.

#### **Section 5.03 Compensation.**

The salary of the Mayor shall be ten percent (10%) greater than the salary fixed by law for the highest paid county constitutional officer.

#### **Section 5.04. Head of Consolidated Government.**

The Mayor shall be recognized as the official head of the Consolidated Government for all ceremonial purposes, by the courts for service of civil process, for signing of all legal instruments, and by the Governor during states of declared emergency.



## **Section 5.05. Powers and Duties of the Mayor.**

The Mayor shall serve as the chief executive officer of the Consolidated Government and shall be responsible for overall administration of the Consolidated Government, including but not limited to: supervision and direction of the Chief Administrative Officer and the development of Consolidated Government procedures and programs. The Mayor shall devote such time as is necessary to perform the duties of the office and shall hold no other public employment or elected public office, except as a notary public. Additionally the Mayor shall have the following rights, powers and duties:

**A.** To execute and enforce all laws, ordinances and policies of the Consolidated Government including the right to promulgate and issue administrative regulations that give controlling direction to the administrative service of the Executive Branch. Nothing in this subsection shall be interpreted or applied to add or subtract from the powers conferred upon the General Counsel in Section 5.03 of this charter.

**B.** To recommend to the Council such measures and ordinances as the Mayor deems necessary or expedient, and to make such other recommendations to the Council concerning the affairs of the Consolidated Government as the Mayor finds desirable;

**C.** To attend and be heard at any regular or special meeting of the Council, but not the right to vote at such meetings;

**D.** To approve or veto actions passed by the Council pursuant to Section 5.06;

**E.** To attend and be heard at any legally held private sessions of the Council, but not the right to vote at such sessions

**F.** Sole Authority to appoint the Chief Administrative Officer and department heads, subject to Council confirmation by majority vote of the full membership, which confirmation shall not be unreasonably withheld;

**G.** Sole Authority to direct and exercise control over the Chief Administrative Officer in managing the affairs of Consolidated Government under the purview of the Mayor;

**H.** Sole Authority to dismiss the Chief Administrative Officer and department heads, with or without cause.

**I.** To cooperate fully with the Council, the Office of the Internal Auditor, and the Office of the Independent Budget Analyst supplying requested information concerning the budget process and fiscal condition of the Consolidated Government-

**J.** To propose a budget to the Council and make it available for public review, no later than June 15<sup>th</sup> of each year;

**K.** On or before January 15<sup>th</sup> of each year, the Mayor shall communicate by message to the Council a statement of the conditions and affairs of the Consolidated Government, and make recommendations on such matters as he or she may deem expedient and proper;

### **Section 5.06 Veto Power.**

Subject to the limits expressed herein, the Mayor may exercise a veto power over ordinances and resolutions adopted by the Council. However, the Mayor may not exercise veto power over any ordinance or resolution adopted by the Council relating to:

- A.** Appointments made by the Council.
- B.** Zoning matters.
- C.** The Secretary of the Council or other Council employees.
- D.** Council investigations.
- E.** The internal affairs of the Council and its primary staff offices and employees.
- F.** Quasi judicial decisions of the Council.
- G.** An emergency ordinance as defined in Florida Statutes;
- H.** Ordinances proposing charter amendments, which the Council is required by law or by this Charter to place on the ballot.
- I.** Ordinances proposed by citizen initiative.
- J.** Ordinances approved or rejected by referendum, and
- K.** Declarations of general or local emergency.

Any ordinance or resolution adopted by the Council over which the Mayor has veto power shall be presented to the Mayor within five days of adoption by the Council for his or her consideration and recommendations. If the Mayor approves the ordinance, he or she shall sign it and it shall become effective in accordance with the terms thereof. If the Mayor disapproves, he or she shall return the ordinance or resolution to the Council without the Mayor's signature, accompanied by a message indicating the reasons for disapproval and recommendations. Any resolution or ordinance so disapproved by the Mayor shall become effective only if, subsequent to its return, it is adopted by vote of no fewer than six (6) members of the Council. Except that if the Mayor vetoes any item in the consolidated budget appropriation only a majority vote of the full membership of the Council shall be required to adopt the same law over the Mayor's veto.

Any ordinance or resolution shall become effective on the date provided therein unless disapproved by the Mayor and returned to the Council at or prior to the next regular meeting of the Council occurring ten (10) days or more after the date when the ordinance was delivered to the Mayor's office for consideration.

The Mayor may disapprove or reduce the sum of money appropriated by any one or more items or parts of items, in any ordinance or resolution appropriating money for use of the Consolidated Government or any independent agency of the Consolidated Government, in any manner provided herein. The one or more items or parts of items disapproved or reduced shall be void to the extent that they have been disapproved or reduced, unless they shall be restored to the ordinance or resolution and become effective by a majority vote of the full membership of the Council.

### **Section 5.07 Vacancy in Office.**

For purposes of this section, a vacancy in office may result from death, forfeiture, resignation, removal or recall.

- A. If a vacancy occurs by reason of forfeiture, the date of the vacancy will be the date of the occurrence of the event which required the forfeiture as set forth in Section 5.01.
- B. If a vacancy occurs by reason of resignation, the date of the vacancy will be the date specified in the written letter of resignation. If there is no date certain specified in the letter of resignation, the date of the vacancy shall be the date of the letter is received by the Council Secretary.
- C. If a vacancy occurs in the office of mayor for any reason other than a successful recall election, and :
  1. If the vacancy occurs with twelve (12) months or less remaining in the term, within thirty (30) days, the Council shall appoint a person to fill the unexpired portion of such term.
  2. If the vacancy occurs with more than twelve months remaining in the unexpired term, the Council shall call a special election to be held within 90 days of the vacancy, unless there is a statewide or countywide election scheduled to be held within 180 days of the vacancy. If there is a statewide or countywide election scheduled to be held within 180 days of the vacancy, the Council may hold the special election in conjunction with the statewide or countywide election.
  3. The Mayor appointed by the Council must meet the qualifications for office, as set forth in Section 5.01 of this Charter at the time of appointment
    - a. If one candidate receives the majority of votes cast for all candidates in the special election, that candidate receiving the

majority of votes cast shall be deemed to be and declared by the Council to be the Mayor.

b. If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within forty-nine days of the first special election, unless there is a statewide or countywide election scheduled to be held within 90 days of the proposed special run-off election. The two candidates receiving the highest number of votes cast for the office of mayor in the first special election shall be the only candidates for the office of mayor and the names of only those two candidates shall be printed on the ballot for the run-off election for that office.

**D.** If a vacancy occurs by reason of a successful recall election, the Council shall adopt procedures to fill the vacancy in accordance with the provisions of general law relating to municipal recall elections.

**E.** Whether a person is appointed or elected to the office of mayor, whatever the reason for that vacancy, that person shall serve as Mayor for the remainder of the unexpired term.

**F.** Upon the appointment or election of any person to the office of mayor, any other office held by that person in the Consolidated Government is automatically vacated.

**G.** During the period of time when an appointment or election is pending to fill a vacancy in the office of mayor, the Council President shall be vested with the Authority: (1) to supervise the staff remaining employed in the office of the mayor, (2) to direct and exercise control over the Chief Administrative Officer in managing the affairs of the Consolidated Government under the purview of the Mayor and, (3) to exercise other power and Authority vested in the office of the mayor when the exercise of such power and Authority is required by law. This limited Authority includes circumstances where the expeditious approval of a legislative action is necessary to meet a legal requirement imposed by a court or other governmental agency. Such limited Authority does not include the exercise of a power of veto or any other discretionary privilege which is enjoyed by a person duly appointed or elected to the Office of mayor. The Council President, while acting under this section pending the filling of a mayoral vacancy, shall not lose his or her rights as a member of the Council.

## **Section 5.08 Removal from Office.**

The Mayor may be removed from office pursuant to the provisions of the Constitution applicable to removal of county or municipal officials, or by a recall election to be held pursuant to general law.

### **Section 5.09 Mayor's Absence, Incapacity or Suspension.**

During any absence of the Mayor from Escambia County, the Council President shall automatically become Acting Mayor, with emergency powers to act only when the public interest requires and with such additional powers as the Mayor may designate. If the Mayor becomes incapable of acting as mayor and incapable of delegating his or her duties, or in the event the Mayor is suspended from the exercise of his or her office, and in either case as long as the incapacity or suspension lasts, the Council President shall automatically become Acting Mayor, with all the powers of the office. If the Mayor and the Council President are simultaneously absent from Escambia County, or simultaneously incapable of acting as mayor and incapable of delegating the duties of office of mayor, or simultaneously suspended in the exercise of the office of mayor, the Council Vice-President shall automatically become Acting Mayor with the same powers as the Council President would have in like circumstances. The Council may, by ordinance, provide for further succession to the same powers as provided in this section.

### **Section 5.10 Public Officer.**

The Mayor shall be considered a public officer for the purposes of Section 8 of Article II of the state constitution, entitled "Ethics in Government".

### **Section 5.11 Chief Administrative Officer.**

**A. Appointment, Qualifications, Removal and Compensation.** The Chief Administrative Officer shall be appointed by the Mayor, subject to Council confirmation by majority vote, which confirmation shall not be unreasonably withheld and may be removed by the Mayor, with or without cause. The qualifications of the Chief Administrative Officer shall include professional training and executive and administrative ability commensurate with the duties of the office. The compensation of the Chief Administrative Officer shall be fixed by the Council. During his or her tenure, the Chief Administrative Officer shall reside

in Escambia County, Florida and shall not actively engage in any other business or occupation.

**B. Powers and Duties of the Chief Administrative Officer.** The Chief Administrative Officer shall serve as the professional administrator of the Consolidated Government.

### **Section 5.12. Office of the General Counsel.**

**A.** The Office of the General Counsel shall have the responsibility for furnishing legal services to the Consolidated Government and its independent agencies, except that the Council may create an office of legislative counsel within the legislative branch whose purpose shall be to advise and assist the Council and its committees and members in the achievement of a clear, faithful and coherent expression of legislative policies and to perform such other related duties for the Council as the Council may by ordinance direct. For purposes of utilization of centralized services by the Consolidated Government and its independent agencies, the services of the office of General Counsel shall be deemed to be centralized services.

**B.** The head of the Office of General Counsel shall be the General Counsel, who shall be the chief legal officer for the entire Consolidated Government except in those cases where the General Counsel determines that office's legal staff cannot provide the necessary legal services in the required legal area, including its independent agencies but excluding constitutional officers. The General Counsel shall devote his or her entire time and attention to the business of the office and shall not engage in the private practice of law. Any legal opinion by the General Counsel shall constitute the final Authority for the resolution or interpretation of any legal issue relative to the entire Consolidated Government and shall be considered valid and binding in its application unless and until it is overruled or modified by a court of competent jurisdiction or an opinion of the Attorney General of the State of Florida provided at the request of the General Counsel or dealing with a matter of state involvement or concern.

**C.** Selection and term of General Counsel. The General Counsel shall be an attorney licensed to practice law in the State of Florida and shall have at least 5 years' experience in the practice of law. The General Counsel shall be selected according to the following procedure. Upon the commencement of each mayoral term of office, the Mayor shall appoint a selection committee comprised of five attorneys licensed to practice law in the State of Florida. No

more than two of the members of this committee shall be former General Counsels of the Consolidated Government. The selection committee shall receive applications and may consider applicants of its own choosing. The committee shall select three qualified and available candidates to serve as General Counsel and shall recommend these three candidates to the Mayor. The Mayor shall select one of the three candidates to serve as General Counsel, which selection shall not be unreasonably withheld. In the event that the Mayor refuses to select one of the three candidates, then the committee shall conduct another search and recommend an additional three candidates to the Mayor. This procedure shall continue until the Mayor has made his or her selection. The Mayor's selection of the General Counsel shall be subject to the Council's confirmation by majority vote of the full membership, which shall not be unreasonably withheld. The term of the General Counsel shall coincide with term of the Mayor that appointed him or her.

**D. Reappointment.** A General Counsel may be reappointed by a newly elected mayor or by a mayor elected to serve a succeeding term of office. The reappointment of General Counsel shall be subject to the Council's confirmation by majority vote of the full membership, which shall not be unreasonably withheld. Any General Counsel who is reappointed by the Mayor but who fails to receive Council confirmation may, at the option of the Mayor, continue to serve for a period of six (6) months subsequent to the refusal of the Council to confirm him or her. The Mayor may resubmit the General Counsel to the Council for confirmation at any time during this six (6) month period. In the event the General Counsel again is not confirmed by the Council, then the position of General Counsel shall become vacant and shall be filled according to the provisions of section 5.12(c).

**E. Vacancy.** A vacancy occurring twelve (12) months or less before the expiration of the Mayoral term shall be filled by an Acting General Counsel appointed by the Mayor and confirmed by the Council. A vacancy occurring more than twelve months before the expiration of the Mayoral term shall be filled in the manner provided in section 5.12C.

**F. Removal.** The General Counsel shall serve at the pleasure of the Mayor and may be removed only by the Mayor.

**G. Assistant counsels.** The General Counsel shall appoint assistant counsels and fix their compensation, subject to the approval of the Mayor

The assistant counsels shall devote their full time and attention to the business of the office and shall not engage in the private practice of law.

## **ARTICLE VI**

### **THE LEGISLATIVE BRANCH**

#### **The Council for the Consolidated Government, the Council Secretary and the Office of Internal Audit**

##### **Section 6.01. Council Composition.**

The Council shall consist of nine (9) members and there shall be nine (9) Council districts. Each Council district shall elect one Council member.

**A. Terms.** Each member of the Council shall be elected from a single member district by the electors residing within that district to serve a term of four (4) years, beginning on the first Tuesday after their election and continuing until a successor is elected and qualified. Council members representing even numbered districts and Council members representing odd numbered districts shall serve staggered terms following the Initial Election held in accordance with Section 13.01 of this Charter.

**B. Compensation.** Members of the Council shall receive an annual salary equal to that of the members of the Escambia County School District Board.

**C. Qualifications.** Every member of the Council shall be continuously throughout his or her term of office, a resident and qualified elector of both Escambia County, and of his or her district. A candidate for the office of member of the Council shall have resided in the district and been a qualified elector of Escambia County for at least 365 consecutive days immediately before the date on which the candidate qualifies to run for the office. Members of the Council shall not hold any other public office or public employment except as a notary public nor shall any member of the Council be an employee of the Consolidated Government or any of its independent agencies.

##### **Section 6.02 Powers of the Council.**

All legislative powers of the Consolidated Government are vested in the Council. The Council shall have the right to legislate with respect to any and all



matters which are within the powers of the Consolidated Government. In addition, the Council shall have the following powers and duties:

- A. To inquire into the conduct of any office, department, agency or officer of the Consolidated Government and to investigate municipal affairs, and for that purpose, may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence.
- B. To override the Mayor's veto of any ordinance or resolution by vote of no fewer than six (6) members of the Council at the next regular meeting occurring ten (10) days or more after the ordinance was delivered to the Mayor's office for consideration; except that if the Mayor vetoes or reduces any item in the Consolidated Government budget appropriation, only a majority vote of the full membership of the Council shall be required to adopt the same measure over the Mayor's veto or reduction.

**Section 6.03. Restrictions on the Council and Council Members.**

- A. Except as otherwise provided by this charter, neither the Council nor any of its members shall dictate or interfere with the appointment or removal of any employee or appointive officer under the direction of either the Mayor or the Chief Administrative Officer.
- B. Except for the purpose of an inquiry, neither the Council nor any of its members shall give orders either publicly or privately to any employee or appointive officer under the direction of the Mayor or Chief Administrative Officer. Any such dictation, prevention, orders, or other interference on the part of the Council member(s) shall be a violation of this charter and shall constitute a municipal offense, and upon conviction before a court of competent jurisdiction, shall be punished by a fine not exceeding \$500 or imprisonment for a term not to exceed 60 days.

**Section 6.04. Vacancies; temporary appointments.**

- A. The office of a Council member shall become vacant upon his or her death, resignation, failure to reside continuously in the district from which he or she was elected, or when the Council member no longer qualifies for office, (except in the event redistricting should occur during the member's term of office), or is removed from office in any manner provided by law. If a vacancy occurs because of resignation, the date of the vacancy will be the date specified in the written letter of resignation, or if there is no date

specified in the written letter of resignation, upon the date the letter of resignation is received by the Council Secretary.

- B. Council vacancies shall be filled by appointment by majority vote of the remaining members of the Council within ten (10) days after the vacancy occurs. The appointee shall serve the unexpired term of the previous Council member unless the unexpired term is twenty-eight (28) months or longer. If the vacancy occurs with twenty-eight (28) months or longer remaining in the term of office, such appointee shall serve until the next general election is held. The person elected at such election shall serve only for the unexpired term of the vacated office. The Council Member appointed by the Council must meet the qualifications for office as set forth in Section 6.01 C., of this charter at the time of appointment.

### **Section 6.05. Removal.**

Members of the Council may be removed from office pursuant to the provisions of the Constitution and laws of the State of Florida applicable to county or municipal officials, or by a recall election held pursuant to general law.

### **Section 6.06. Council Procedures.**

- A. The Council shall meet on a regular basis at least once every month at such times and places within the county as the Council may prescribe. Special meetings may be held on the call of the Council President, or the Mayor, or a majority of Council members and, whenever practicable, upon no less than twelve (12) hours notice to each Council member and the public, or such shorter time as the Council President or the Mayor deems necessary in the event of a threat affecting life, safety, health, welfare, property of the citizens of the Consolidated Government or during a state of emergency.
- B. Officers, Rules and Minutes. At the first meeting of each calendar year, the Council shall elect from among its members a Council President and Vice-President. The Council shall adopt rules of procedure and order of business, and shall keep minutes of its proceedings that shall be open for public inspection.
- C. A majority of the full Council membership shall constitute a quorum; once a quorum is present, unless otherwise in conflict with general law or this charter, action may be take by majority vote of those present and constituting a quorum.
- D. Voting. Voting on ordinances, resolutions and on any other matter in which any member of the Council calls for such a vote shall be by roll call

and the yeas and nays shall be recorded in the minutes. All other voting shall be by a simple voice vote unless otherwise required by law.

- E. Council to Act by Ordinance, Resolution, or Motion. The Council shall take official action only by ordinance, resolution, or motion. Each proposed ordinance or resolution shall be introduced in writing and shall not contain more than one subject which shall be clearly stated in the title, except that general appropriation ordinances or resolutions shall be entitled as such. All ordinances shall be passed in accordance with general law for municipalities. The affirmative vote of the majority of the Council members shall be necessary to adopt any ordinance unless otherwise specifically provided in this charter or as may be required by general law.
- F. Authentication and Recording of Ordinances and Resolutions. The Council Secretary shall authenticate by his or her signature, and record in full, in an indexed book kept for the purpose, all ordinances and resolutions adopted by the Council. The Council may provide for reproduction, distribution, and codification of ordinances and resolutions of the Consolidated Government.

#### **Section 6.07 .Office of the Council Secretary.**

The Office of the Council Secretary shall be a primary staff office of the Council. It shall be responsible for the staff secretarial functions required by the Council. The Council shall appoint a Council Secretary as director of the Office of the Council Secretary who shall be responsible for the performance of the following duties by his or her office:

- A. Rendering due notice of the time and place of Council meetings to Council members and to the public.
- B. Maintenance of the minutes of Council proceedings.
- C. Procurement for the Council of any required publication of notices, ordinances, resolutions, or charter amendments.
- D. Maintenance of an indexed file containing copies of the code of ordinances, this charter, every adopted ordinance, resolution, rule, regulation, and code of regulations, and every adopted amendment or modification of any of the foregoing for public inspection.
- E. Performance of such other duties as the Council may prescribe.

*Nothing herein shall prohibit the Council from entering into an interlocal agreement with the clerk of the circuit court for provision of the services of Council secretary by the clerk of the circuit court.*

### **Section 6.08. Office of Internal Audit.**

The Office of Internal Audit shall be a primary staff office of the Council. It shall be responsible directly, and only, to the Council for an active internal audit of all offices, boards, authorities, departments, and officials of the Consolidated Government, excluding constitutional officers. The Council shall appoint an auditor as director of the Office of Internal Audit who shall be a certified public accountant as defined by Florida law. The Office of Internal Audit shall be responsible for the examination of the accounting systems, financial records, and operating procedures of each component of the Consolidated Government in order to:

**A.** Appraise the soundness, adequacy, and application of accounting, financial and operating controls.

**B.** Ascertain the extent of compliance with state statutes, Council ordinances and resolutions, and established executive policies, plans and procedures.

**C.** Ascertain the extent to which the Consolidated Government's assets are accounted for and safeguarded from losses of all kinds.

**D.** Ascertain the reliability of accounting and operating data recorded.

**E.** Appraise the quality of performance in carrying out service and work assignments and responsibilities.

**F.** Prepare and render timely reports to the Council regarding the findings and recommendations resulting from the examination of the accounting systems, financial records, and operating procedures of the related Consolidated Government components.

*Nothing herein shall prohibit the Council from entering into an interlocal agreement with the clerk of the circuit court for provision of the services of internal auditor by the clerk of the circuit court.*

## **Article VII**

### **CONSTITUTIONAL OFFICERS**

Constitutional Officers. The offices of sheriff, property appraiser, clerk of the circuit court, tax collector and supervisor of elections shall remain as elected constitutional offices with the same powers, duties, and functions as provided by law.

## **ARTICLE VIII**

### **GENERAL GOVERNMENT OPERATIONAL ORGANIZATION**

#### **Section 8.01. Departments .**

The Mayor shall determine the organization of the Executive Branch and prescribe the duties and responsibilities assigned to the various departments.

#### **Section 8.02.**

Unless otherwise provided by law, the Council, by ordinance, shall establish, create or abolish such authorities, boards or commissions as it may deem advisable from time to time. Such ordinances shall include provisions relating to composition and membership, rules and procedures, methods of appointment and removal of members. Provided however, that only residents of the county may be appointed to serve on such authorities, boards and commissions.

## **ARTICLE IX**

### **AUTHORITIES, BOARDS AND COMMISSIONS**

#### **Section 9.01 Consolidated Utilities Authority.**

A. There shall be an independent Authority of the Consolidated Government known as the Consolidated Utilities Authority. The Consolidated Utilities Authority shall be the successor to the Emerald Coast Utilities Authority and shall be the single Authority providing utility services, including water and sewer, natural gas and solid waste services within the territories of the former governments consolidated hereunder. Utilities operated by a separate municipality or utilities operated by entities other than those now merged under Consolidated Government shall not be subject to the provisions of this Article. Upon the

effective date of this Charter, Chapter 2001-324, Laws of Florida, and all special acts amending this law or otherwise relating to the Emerald Coast Utilities Authority shall become ordinances subject to amendment and repeal by the Council for the Consolidated Government.

**B.** Except as otherwise specified in this Charter, all properties, rights, capacities, privileges, powers, franchises, liabilities, obligations and duties of the Emerald Coast Utilities Authority previously established by law and by contract and Energy Services of Pensacola are hereby transferred to the Consolidated Utilities Authority.

**C. Governing Board.** The Consolidated Utilities Authority shall be governed by a board of five (5) members elected on a non-partisan basis from each of the single member districts established for the Escambia County School District Board. The terms, residency requirements, qualifications, means of filling vacancies for board members of the Consolidated Utilities Authority shall be the same as for Council Members. Additionally, persons seeking the office of board member of the consolidated utilities Authority shall be a customer of the Authority. No officer, whether elected or appointed, and no employee of a government within the county shall be qualified to serve as a member of the Authority.

**D. Compensation.** The salary of the Board members shall be \_\_\_\_\_ payable monthly in equal installments. Board members shall not receive pension, retirement or health care benefits: nor shall they be considered employees of the Consolidated Government.

**E.** Before entering upon official duties, each member shall take an oath to administer the duties of office faithfully and impartially, and a record of such oath shall be filed in the office of the Clerk of the Circuit Court.

**F.** The Board shall elect a chair and a vice chair, each of whom shall serve for one year or until a successor is chosen. The chair or the vice chair in the chair's absence, shall preside at all meetings of the Board and shall perform such additional duties prescribed by the Board. The Board shall hold regular meetings at least monthly at such times and places as it may designate and may hold more frequent special meetings. A majority of the membership shall constitute a quorum for the purpose of meeting and transacting business. Each member of the Authority shall have one vote. The Authority may adopt bylaws and may make all policies, procedures, rules, and regulations not inconsistent with this act which it may deem necessary respecting the conduct of its affairs, including, but not limited to, the

operation of its utility systems. Such policies, procedures, rules, and regulations shall provide for notice of all public meetings and shall provide that an agenda shall be prepared by the Authority in time to ensure that a copy of the agenda will be available at least three days before any regular meeting of the Board. After the agenda has been made available, change shall be only for good cause, as determined by the person designated to preside at the meeting, and stated in the record. Special or emergency meetings may be called by the chair upon no less than 24 hours notice. The Board shall publish and thereafter codify and index all Authority rules, regulations, and resolutions formulated, adopted, or used by the Authority in the discharge of its functions. Such rules, regulations, and resolutions shall be made available for public inspection and copying, at no more than cost. The Authority shall not be deemed an “agency” within the meaning of ch. 120, Fla. Stat. The Authority shall be deemed to be an “agency” within the meaning of ch. 119, Fla. Stat., and all records of the Authority shall be open to the public. The Authority shall be deemed an “agency” or “Authority of the Consolidated Government” for purposes of Section 286.011, Fla. Stat., and the “Government in the Sunshine Law.” Members of the Authority shall be subject to the provisions of Section 286.012, Fla. Stat. relating to voting at meetings of the Authority. In addition to the provisions of the Code of Ethics for Public Officers and Employees, ch. 112, pt. III, Fla. Stat., no consultant to the Authority shall have or hold any employment or contractual relationship with a business entity other than the Authority in connection with any contract in which the consultant personally participated through decision, approval, disapproval, recommendation, rendering of advice, or investigation while the consultant. However, this provision shall not preclude the award of any contract to a consultant if such contract is awarded after open competitive bidding.

**G. Executive Director.** The powers, duties and responsibilities of the Executive Director shall be set forth by resolution of the Board. Neither the Mayor, the Chief Administrative Officer, nor the Council may direct the manner in which the Executive Director carries out the duties under this section. In times of declared emergencies, the Executive Director shall work closely and in cooperation with the Mayor.

**H.** The Consolidated Utilities Authority may decline to utilize centralized services if it can be shown to be more efficient and cost effective not to do so, and the Council concurs.

## **Section 9.02. Economic Development Commission.**

The Council shall create by ordinance an Economic Development Commission which will oversee and ensure the creation and continued existence of an entity or

entities that will foster long term economic growth and stability through public partnerships with educational institutions, private enterprise and the military.

**Section 9.03. Required Use of Centralized Services.**

Except as otherwise provided by law or permitted by the Council or this charter, all authorities, boards and commissions, not including the constitutional officers, in need of goods or services within the definition of centralized services, shall utilize all centralized services provided by the Consolidated Government and pay therefor on a cost accounting basis in compliance with all fiscal and governmental service policies and procedures of the Consolidated Government.

**ARTICLE X**

**FINANCIAL ACCOUNTABILITY AND CONTROL PROCEDURES**

**Section 10.01. Fiscal Year.**

The fiscal year of the Consolidated Government including all its offices, boards, commissions and authorities shall begin on the first day of October and end on the last day of September.

**Section 10.02. Bonded Debts of Former Governments.**

**A.** The debt service paid on outstanding debt of the former governments shall be provided from the same sources from which the debt service would have been paid had consolidation not taken place.

**B.** When bonds payable from ad valorem taxation have been pledged to meet the debt service requirements of any bonds issued by the former governments, the Consolidated Government shall levy taxes for the payment of such bonds only on the property which is located in the area where property was taxable for the payment of such bonds immediately prior to the effective date of this charter.

**C.** Bonds payable from special assessments levied against properties specially benefited by the improvements financed from the proceeds of such bonds shall continue to be payable solely from such assessments.



**D.** In the event that any of the obligations issued by the former governments are replaced by refunding bonds issued by the Consolidated Government, the debt service requirements of such refunding bonds shall be payable solely from the same sources.

**E.** Notwithstanding the provisions of Section 13.01A, funding and payment of government pensions to employees of former governments shall be provided from the same sources for funding and payment of such pensions had consolidation not taken place. If ad valorem taxes are utilized for funding and payment of such pensions, the Consolidated Government shall levy taxes for such payments only on the property which is located in the area where property was taxable for such purpose immediately prior to the effective date of this charter.

### **Section 10.03 Office of Independent Budget Analyst.**

The Office of Independent Budget Analyst shall be an independent office whose designated function is to assist the Council in the conduct of budgetary inquiries and in the making of budgetary decisions.

**A.** Independent Budget Analyst is the administrative head of the office and shall be appointed by majority vote of the Council. The Council may remove the Independent Budget Analyst from office by a vote of no fewer than six (6) of its members, with notice and for good cause.

**B. Qualifications of the Independent Budget Analyst**

The appointee serving as Independent Budget Analyst shall have the minimum professional qualifications of a college degree in finance, economics, business, or other relevant field of study. In addition, such appointee shall have experience in the area of municipal finance or substantially similar equivalent experience.

**C. Duties of the Independent Budget Analyst**

1. Providing a formal, comprehensive review and analysis of the Mayor's proposed annual budget;
2. Gathering, organizing, and analyzing data and information relative to budgetary issues;

3. Providing comparative studies of other communities as they relate to municipal finance;
4. Engaging in fiscal forecasting and planning, including developing means of financing long-range capital improvement programs;
5. Analyzing Consolidated Government's past, current, and proposed revenues and expenditures;
6. Reviewing existing and potential tax revenues;
7. Analyzing federal, state, and local programs to determine sources of funding and appropriate expenditure options;
8. Reviewing the economic effects of proposed legislation;
9. Constructing economic models and indices as directed by the Council;
10. Preparing fiscal and economic project analysis as directed by the Council;
11. Providing policy research and analysis on proposed legislation;
12. Preparing such other reports relating to budgetary and legislative policy concerns as directed by the Council; and
13. Making recommendations to the Council in connection with the analysis, studies, and reports described herein.

**D. Budget.** The Council shall appropriate a reasonable budget for the Office of the Independent Budget Analyst.

**E. Conflict of Interest Code.** A conflict of interest code shall be adopted for the Independent Budget Analyst and staff of the Independent Budget Analyst, subject to Council approval.

**F.** The Independent Budget Analyst and members of the staff of the Independent Budget Analyst shall be required to complete and file statements of economic interests in accordance with the conflict of interest code.

**Section 10.04. Independent Audit**

**A.** There shall be annual independent audits of the Consolidated Government, including each board, Authority or commission under Consolidated Government, excluding constitutional officers.

**B.** Selection of Auditors. Such audits shall be made by an independent Certified public accountant as defined by law, maintaining a regular, full-time professional office in the State of Florida. No such accountant or firm of accountants shall have any financial interest, direct or indirect, in the fiscal affairs of the Consolidated Government. The Council shall select an auditor for the Consolidated Government, including all boards, commissions and authorities under Consolidated Government.

**C.** Audit Reports. The final reports of the independent auditors shall fulfill the audit requirements of Florida law for audits of municipalities, shall be completed as soon as practicable after the close of the fiscal year and in no event later than four (4) months after the close of the fiscal year. The audit reports shall be filed with the Council Secretary and be available to the public.

**Section 10.06. Exemption from the requirements of Section 218.21(3), Fla.Stat.**

The new city resulting from the consolidation of the City of Pensacola and the Town of Century and Escambia County shall be a “municipality” for the purposes of revenue sharing pursuant to Part II, Chapter 218, Fla.Stat., the Revenue Sharing Act of 1972, notwithstanding the definition of “municipality” set forth in Section 218.21 (3), Fla.Stat.

**ARTICLE XI**

**ELECTIONS**

**Section 11.01. Election Procedures.**

Elections for all offices of the Consolidated Government, except for members of the Consolidated Utilities Authority Board, shall be on a partisan basis. Elections shall be held on the same dates as the state primary and general elections

and as provided by law. Qualifying for offices to be elected in the general election shall take place at the same time as those for offices in non-charter counties.

### **Section 11.02. Qualifications for Elected Officials.**

**A.** Each elected official of the Consolidated Government shall be a qualified elector of the Consolidated Government and a resident of the county. If seeking office on the Council or on the Consolidated Utilities Authority Board, the candidate shall have been a resident of the district in which the office is sought, for not less than three hundred sixty-five (365) days immediately prior to the date the candidate qualifies to run for office. Candidates for Mayor shall have resided in county for not less than three hundred sixty-five (365) consecutive days immediately prior to the date the candidate qualifies to run for office. During the term of office, each Council member and Consolidated Utilities Authority Board member shall reside in the district from which such Council or Board member ran for office, provided that any Council or Board member who is removed from a district by redistricting may continue to serve during the balance of the term of office.

**B.** Each candidate, except write-in candidates, shall as a condition precedent to having his or her name printed on the ballot, pay the qualifying fee to the office of the supervisor of elections in an amount equal to the sum of the filing fee for such office as provided in general law. All fees collected shall be deposited in the general fund of the Consolidated Government and used to defray the cost of elections. In lieu of paying the filing fee prescribed by this charter, a candidate for the office of Mayor, or Council member, or Consolidated Utilities Authority Board member may have his or her name placed on the ballot for election by complying with the petition process for qualifying as a candidate for county office as prescribed by general law.

### **Section 11.03 Canvassing Board.**

In all elections, the canvassing board shall be as provided by general law for non-charter counties.

### **Section 11.04 Recall.**

The Mayor and members of the Council shall be subject to recall as provided by general law for municipalities and charter counties.

**Section 11.05. Write-In Candidates.**

A person who is seeking election as a write-in candidate shall be subject to general law for non-charter counties.

**Section 11.07. Applicability of General Laws of State to Consolidated Government Elections.**

The general law of the state shall apply to and govern all Consolidated Government elections to the extent that there is no conflict with the provisions of this charter.

**ARTICLE XII**

**LAWS OF FORMER GOVERNMENTS; CHARTER AMENDMENT;  
POWERS OF INITIATIVE AND REFERENDUM**

**Section 12.01. Special Acts; Laws, Ordinances, Regulations and Resolutions of Former Governments.**

All special acts of the Florida Legislature relating to former governments in effect on the effective date of this charter shall become on that day ordinances of the Consolidated Government, subject to amendment or repeal by ordinance of the Council. In the event of conflict between ordinances or special laws applicable to former governments, the Council shall determine which provisions shall prevail, or the areas of the Consolidated Government, or the circumstances in which each ordinance or special law shall be controlling. All existing laws, ordinances, regulations, and resolutions of the former governments shall remain in effect until repealed, amended, or superseded by ordinance except to the extent they are inconsistent with or in direct conflict with this charter.

**Section 12.02. Charter Amendment.**

A. Amendments Proposed by Petition.

(1) Amendments to this charter may be proposed by petition signed by a number of electors equal to at least ten (10%) percent of the number of

electors qualified to vote in the county as a whole in the last preceding general election. Each such proposed amendment shall embrace but one subject and matter directly connected therewith. Each charter amendment proposed by petition shall be placed on the ballot by resolution of the Council for the general election occurring in excess of ninety (90) days from the certification by the supervisor of elections that the requisite number of signatures has been verified.

(2) The sponsor of a petition amendment shall, prior to obtaining any signatures, submit the text of the proposed amendment to the supervisor of elections, with the form on which the signatures will be affixed, and shall obtain the approval of the supervisor of elections of such form. The style and requirements of such form shall be specified by ordinance. The beginning date of any petition drive shall commence upon the date of approval by the supervisor of elections of the form on which signatures will be affixed, and said drive shall terminate one hundred eighty (180) days after the date. In the event sufficient signatures are not acquired during that one hundred eighty (180) day period, the petition initiative shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition. The sponsor shall submit signed and dated forms to the supervisor of elections and upon submission pay all fees as required by general law. The supervisor of elections shall, within forty-five (45) days, verify the signatures thereon.

(3) If approved by a majority of those electors voting on the amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not specified, on January 1 of the succeeding year.

**B. Amendments and revisions by charter review commission.**

(1) A charter review commission consisting of not less than eleven (11) or more than fifteen (15) electors of the county shall be appointed by the Council at least twelve (12) months before the general election occurring in 2014 and at least twelve (12) months before the general election occurring every ten (10) years thereafter, to review this charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. The charter review commission shall include at least one elector from each of the nine Council districts. No member of the state Legislature or the Council shall be a member of the charter review commission. Vacancies shall be filled within thirty (30) days in the same manner as the original appointments.

(2) The charter review commission shall meet for the purpose of organization within thirty (30) days after the appointments have been made. The charter review commission shall elect a chair and vice chair from among its membership. Further meetings of the commission shall be held upon the call of the chair or a majority of the members of the commission. All meetings shall be open to the public. A majority of the members of the charter review commission shall constitute a quorum. The commission may adopt such other rules for its operations and proceedings as it deems desirable. Members of the commission shall receive no compensation but shall be reimbursed for necessary expenses pursuant to law.

(3) Expenses of the charter review commission shall be verified by a majority vote of the commission and forwarded to the Council for payment from the general fund of the Consolidated Government. The charter review commission may employ a staff, consult and retain experts, and purchase, lease, or otherwise provide for such supplies, materials, equipment, and facilities as it deems necessary and desirable.

(4) The charter review commission shall hold at least three public hearings at intervals of not less than ten (10) days nor more than twenty (20) days on any proposed charter amendment or revision, and no charter amendment or revision shall be submitted to the electorate for adoption unless favorably voted upon by a majority of the entire membership of the charter review commission.

(5) No later than ninety (90) days prior to the general election, the charter review commission shall deliver to the Council the proposed amendments or revisions, if any, to the charter, and the Council shall by resolution place such amendments or revisions on the general election ballot. If a majority of the electors voting on the amendments or revisions favor adoption, such amendments or revisions shall become effective on January 1 of the succeeding year or such other time as the amendment or revision shall provide.

(6) If it does not submit any proposed charter amendments or revisions to the Council at least ninety (90) days prior to the general election, the charter review commission shall be automatically dissolved. Otherwise, upon acceptance or rejection of the proposed amendments or revisions by the electors, the charter review commission shall be automatically dissolved. Upon dissolution of the charter review commission, all property of the charter review commission shall thereupon become the property of the Consolidated Government..

C. Amendments proposed by the Council.

(1) Amendments to this charter may be proposed by ordinance adopted by the Council by an affirmative vote of no fewer than six (6) members of the Council. Each proposed amendment shall embrace but one subject and matter directly connected therewith. Each proposed amendment shall become effective only upon approval by a majority of the electors of the Consolidated Government voting in a referendum at the next general election. The Council shall give public notice of such referendum election at least ninety (90) days prior to the general election referendum date.

(2) If approved by a majority of those electors voting on the amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not so specified, on January 1 of the succeeding year.

### **Section 12.03. Power of Initiative.**

Electors of the Consolidated Government shall have the power to propose ordinances to the Council. If the Council fails to adopt an ordinance so proposed without any change in substance, the electors have the power to adopt or reject the proposed ordinance at a special election to be called by the Council. The electors are not empowered to propose ordinances that extend to providing an annual budget, levying taxes, or setting salaries of officers or employees of the Consolidated Government.

### **Section 12.04 Power of Referendum.**

Upon sixty (60) days following the effective date of a measure passed by the Council, the electors of the Consolidated Government shall have the power to require reconsideration by the Council of any ordinance or resolution passed by Council. If the Council fails to repeal a measure so reconsidered, the electors have the power to approve or reject the reconsidered measure at a special election to be called by the Council. The electors are not empowered to reconsider measures that extend to providing an annual budget, levying taxes, setting salaries of officers or employees of the Consolidated Government, land use ordinances (comprehensive plan, land development code, rezoning, variances, conditional uses, development approval) or bond resolutions.

### **Section 12.05 Commencement of Proceedings.**



Any ten (10) electors may commence initiative or referendum proceedings by filing with the Council Secretary an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form. The affidavit shall further provide their names and addresses, specify the mailing address for notices to be sent to the committee, and fully set forth the proposed initiative ordinance or identify the ordinance sought to be reconsidered. Promptly after the petitioners' committee's affidavit is filed, the Council Secretary, at the committee's request, may issue the appropriate petition forms to the committee at the committee's expense.

### **Section 12.06 Initiative or Referendum Petitions.**

**A. Number and Signatures.** Initiative and referendum petitions must be signed by City electors equal to at least fifteen percent (15%) of the total number of registered electors in the county, as shown by the compilation by the supervisor of elections for the most recent general election of the county.

**B. Form and Content.** All petition papers shall be uniform in size and style and shall be printed on separate cards or individual sheets of paper. Adequate space must be provided for the voter's name, address, signature, and date of signature. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

**C. Filing Deadline.** All initiative petitions must be filed within one hundred eighty days (180) days of the commencement date of the initiative proceedings. Referendum petitions must be filed within sixty (60) days of the commencement date of the initiative or referendum proceedings.

## **ARTICLE XIII**

### **PENSION PLANS; PERSONNEL SYSTEM AND EQUAL OPPORTUNITY**

#### **Section 13.01. Pension Plans**

A. All retirement and pension plans of the former governments shall continue and the existing retirement benefits and rights of individuals employed by the former governments as of the day before the effective

date of this Special Act, as set forth in Section 2(d) hereof, shall not be impaired.

- B. The Council may amend and consolidate existing plans but shall not reduce or impair the existing retirement rights and benefits of individuals employed by the former governments as of the day before the effective date of this Special Act, as set forth in Section 2(d) hereof.
- C. As soon as practicable, the Council shall determine the pension plan or plans to which new employees shall be members.

### **Section 13.02. Personnel System**

**A.Merit Principle.** All appointments and promotions of officers and employees of the Consolidated Government, its Authorities, Boards and Commissions shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

**B.Merit System.** Consistent with all applicable federal and state laws the Council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system and a Merit System Protection Board, governing personnel policies necessary to the effective administration of the employees of the Consolidated Government's departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

### **Section 13.03. Equal Opportunity**

The Council and all officials and agencies of the Consolidated Government shall ensure that all individuals and groups be given a fair and meaningful opportunity to participate in the Consolidated Government. There shall be equal opportunity in all employment, in the use of contractors and other service providers, in the use of volunteers, and in appointing citizens to committees, commissions and boards.

The Council and all officials and agencies of the Consolidated Government shall take such actions as are necessary to prevent unlawful discrimination and foster equal opportunities for all citizens. The Council shall provide a written annual report on the status of providing fair and meaningful opportunity to all and groups. At a minimum, the report should include the following topics:

employment, expenditure of public funds through contractors and other service providers, allocation of public spending by district, and appointments to boards and commissions.

The Council shall authorize and request a full disparity study at least once every ten years to monitor and evaluate the Consolidated Government's performance in giving all groups a fair and meaningful opportunity to participate in the Consolidated Government.

The Council shall require all employees to be aware that all groups shall be given fair and meaningful opportunities to participate in the Consolidated Government. All managers' and supervisors' performance evaluations shall contain an equal opportunity component that addresses fair and meaningful opportunities for all groups.

## **ARTICLE XIV**

### **TRANSITIONAL POLICIES**

#### **Section 14.01. Initial Election.**

A. The initial primary election of the Consolidated Government shall be held in May of 2011. The initial general election shall be held in June of 2011. The supervisor of elections shall hold qualifying for the offices of mayor, members of the Council and the Consolidated Utilities Authority Board in accordance with the requirements of general law. The Mayor shall be elected for an initial term of approximately three (3) years and six (6) months to end on the second Tuesday after his or her successor is elected and qualified in the general election scheduled for November of 2014. Council members from Districts 2, 4, 6 and 8 and Consolidated Utilities Authority Board members from Districts 2 and 4, shall be elected for initial terms of approximately three (3) years and six (6) months to end on the second Tuesday after their successors are elected and qualified in the general election scheduled for November of 2014. The Council members from Districts 1, 3, 5, 7 and 9, and Consolidated Utilities Authority Board Members from Districts 1, 3 and 5 shall be elected for initial terms of approximately one (1) year and six (6) months to end on the second Tuesday after their successors are elected and qualified in the general election scheduled for November of 2012. Any

initial term of less than two (2) years shall not be considered a full term. The officers elected in the general election shall take office on the second Tuesday following the general election.

**B. Initial Council Districts.** The Escambia County Board of County Commissioners, the City Council of the City of Pensacola, the Town Council of the Town of Century, the League of Women Voters and the Pensacola Branch of the NAACP, shall each appoint one member to a redistricting committee who shall apportion the county into nine (9) Council districts in accordance with this charter prior to January 31, 2011. Consistent with the Voting Rights Act of 1972, as applied to the City of Pensacola and Escambia County in the Jenkins and Mc Millan cases, the redistricting committee shall create, if possible and practicable, a minimum of three (3) majority-minority districts of the nine (9) districts in order to maintain the proportionate relationship between the percentage of blacks living within the City of Pensacola and the number of majority-minority districts within the City existing as of the effective date of this charter. The 11.6% deviation between the percentage of the countywide black population (21.6%) and the percentage of majority-minority districts required herein (33 1/3 %) is within the 14% deviation noted and approved by the federal court in Jenkins following a finding of a violation of the Voting Rights Act. The nine (9) districts established by the redistricting committee shall be adopted by the Joint Council as presented.

**C. Initial Funding for Elections.** The supervisor of elections shall present the Joint Council a proposed budget to fund the initial elections and the Joint Council shall provide the supervisor said funds, if required in advance of the elections by the supervisor of elections.

#### **Section 14.02. Cooperation of Former Governments.**

All officers, officials, employees, departments, and agencies of the former governments shall cooperate with and assist in planning for the transition to the Consolidated Government in order to ensure that the consolidation of the agencies of the former governments and transfer of the duties and responsibilities of such agencies to appropriate agencies of the Consolidated Government shall be accomplished in the most orderly fashion possible.

#### **Section 14.03. Transitional Budget Provision.**

The budgets for the former governments, on the effective date of this charter, shall constitute together the initial budget of the Consolidated Government and shall be subject to the provisions of Article X of this charter.

**Section 14.04. Accounting for Funds and Other Property of Former Governments.**

All officers, officials, boards, commissions, agencies, and employees of the former governments shall promptly account for and pay to the Consolidated Government any and all funds or other property for which they would have been required to pay over to the former governments.

**Section 14.05. Proceedings Continued.**

All petitions, hearings, and other proceedings pending before any officer, department, or board of the former governments shall continue and remain in full force and effect and the petition, hearing, or proceeding shall be completed by the officer, department, or board of the Consolidated Government which succeeds to the rights, duties and obligations of such abolished or consolidated agency.

**Section 14.06. Transition Period.**

- A. Joint Commission. Within ten days of the effective date of this Charter, the Escambia County Board of County Commissioners and the City Council of the City of Pensacola shall meet and act jointly as a single governing board of the Consolidated Government until the Mayor and Council members take office as provided in this charter. A majority vote of the members of the Joint Commission present shall prevail. The Joint Commission shall adopt rules of procedure and shall elect a chair and vice chair.
- B. Upon taking office, the Mayor and the Council shall assume all authority and exercise all powers of the Consolidated Government, and the Joint Commission is abolished. The terms of the members of the Joint Commission shall not be deemed to overlap with the terms of the Mayor and Council members elected pursuant to this charter.

**Section 14.07. Employees and Officials Continued in Office.**

**A.**All employees of former governments shall, on the effective date of this charter, become employees of the Consolidated Government without any loss of salary or benefits that they had as of October 1, 2010 on account of the adoption of this charter. However, no employee of a former government shall have promotion rights in the Consolidated Government solely by virtue of any rule or law of any such former government. All promotion rights of all employees of the Consolidated Government shall be governed by ordinance of the Council of the Consolidated Government as required by Section 13.02 Personnel System, of this charter. Employees of former governments who become employees of the Consolidated Government after the effective date of this charter may thereafter be discharged by the Consolidated Government only for cause, it being the intention hereof to assure the employees of all former governments that consolidation of governments by this charter will not cause any loss of employment opportunities to any employee of a former government.

**B.**Where an agency of any former government is abolished or consolidated by this charter, all employees and officers thereof shall continue as employees of the agency to which the rights, powers, duties and obligations of such abolished or consolidated agency are transferred. The employees and officers shall continue to perform their usual duties on the same terms and conditions until transfer with the same status as held under the former government or one of equal rank, job value, or class, to other agencies of the Consolidated Government. The Merit System Protection Board however, shall determine in questions arising under the preceding sentence, the rank and position of heads of departments and of personnel transferred to service in the Consolidated Government.

**C.**Where the rights, powers, duties, and obligations of an agency of any of the former governments are divided between two or more agencies of the Consolidated Government, each of them shall receive the employees which prior to the effective date of this charter were regularly occupied in connection with the functions which are by this charter transferred to such agency. Every employee to whom this section applies shall, as soon as practicable acquire and retain the same status, rank, job value or position, or one of equal class that the employee held in the former government except that in cases of conflict between heads of departments and also between personnel of former governments, Merit System Protection Board shall determine the organization and rank structure of the new department of the Consolidated Government and the rank and relative position to be held by such transferred personnel or department heads.

**D.**All other questions arising under this section shall be decided by the Merit System Protection Board, which shall, except in the determination of rank and relative positions to be held in the Consolidated Government, not impair or

diminish the rights and privileges of any employees under any civil service system of the former governments on the effective date of this charter.

**Section 14.08. Agency Transition.**

Subject to the provisions of Articles VIII and XII, the following agencies of the City of Pensacola and Escambia County shall continue to exercise and have all of the powers, duties, obligations, and responsibilities of the respective agencies under the former governments:

**A. City of Pensacola Agencies:**

Pensacola Downtown Improvement Board  
City of Pensacola Community Redevelopment Agency

**B. Escambia County Agencies:**

Escambia County Area Housing Commission  
Community Redevelopment Agency of Escambia County  
Escambia County Housing Finance Authority  
Escambia County Law Library  
Escambia County Health Facilities Authority  
Escambia Soil and Water Conservation District  
Santa Rosa Island Authority

**C. Joint Agencies:**

Escambia-Pensacola Human Relations Commission  
Pensacola-Escambia Promotion and Development Commission

Vacancies in the above agencies during the transition period shall be filled by the Joint Commission. The powers granted in Section 8.02 shall be exercised by the Council.

Section 2. Referendum provisions, effective dates, and contingent repeal.

(a) Referendum Approvals Required. The Consolidated Government of Pensacola, Town of Century, and Escambia County shall be created, and the provisions of the charter in section 1 shall become operative and effective, only if this act shall be ratified and approved by a majority vote of the qualified electors voting in Escambia County and by a majority vote of the qualified electors voting in the City of Pensacola, and/or by a majority vote of the qualified electors voting in the Town of Century. For that purpose, a referendum shall be held at a special election as required by this section.

(b) Notice. Notice of said referendum shall be given by the Clerk of the Circuit Court of the First Judicial Circuit, Escambia County, Florida, by publishing the same no less than four (4) times in a newspaper of general circulation, published in Escambia County. The first such publication shall not be less than thirty (30) days before said referendum. Said notice shall be in substantially the following form:

"Notice is hereby given that a referendum will be held at a special election in Escambia County, Florida, on November \_\_\_\_, 2010, for the approval or disapproval of the charter of The Consolidated Government of Pensacola, Town of Century and Escambia County pursuant to (Senate Bill/House Bill Number) and Section 3, Article VIII, Constitution of the State of Florida, 1968."

It shall be the duty of the Board of County Commissioners of Escambia County to provide for the holding of said referendum as provided herein. The Canvassing Board of said referendum shall file a certificate of the result of the referendum with the Secretary of State and with the Clerk of the City of Pensacola, and the certificate shall be recorded by the Supervisor of Elections of Escambia County in the record of election returns.

(c) Question on the Ballot. The question to appear on the ballot to be used at said special election shall be as follows:

Shall Escambia County and the City of Pensacola and/or the Town of Century be merged into a single Consolidated Government pursuant to the provisions of (Senate Bill/House Bill Number) and Section 3, Article VIII, Constitution of the State of Florida, 1968?



Yes \_\_\_\_\_

No \_\_\_\_\_

(d) Effective dates. This section 2 and sections 3 and 4 take effect upon this act becoming law. Section 1 and the charter for the Consolidated Government of Pensacola, Town of Century, and Escambia County shall take effect, and the Consolidated Government of Pensacola, Town of Century, and Escambia County shall exist and be operative following certification by the County Canvassing Board of the following voter approvals:

- (1) The referendum was approved by a majority vote of the qualified electors voting in Escambia County, and
- (2) The referendum was approved by a majority vote of the qualified electors voting in the City of Pensacola, or
- (3) The referendum was approved by a majority vote of the qualified electors voting in the Town of Century.

(e) Contingent Repeal. If one or more of the voter approvals in subsection (d) do not occur, this act shall "sunset" and stands repealed in its entirety on January 1, \_2010\_\_.

Section 3. If any part of this act is held unconstitutional, the remainder thereof shall remain in full force and effect.

Section 4. This act may be cited as "Charter of the Consolidated Government of the Pensacola, Century and Escambia County."

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Filed in Office of Secretary of State

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