

ORDINANCE 2008-04

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CLEWISTON, FLORIDA, CALLING FOR A REFERENDUM TO BE HELD ON NOVEMBER 4, 2008, PROPOSING TO THE ELECTORATE OF THE CITY OF CLEWISTON, FOR REPEAL IN ITS ENTIRETY, THE EXISTING CLEWISTON CITY CHARTER, AS AMENDED; PROPOSING FOR ENACTMENT OF A NEW CITY CHARTER OF THE CITY OF CLEWISTON; PROVIDING FOR CONTINUATION OF FORM OF GOVERNMENT; PROVIDING FOR CITY BOUNDARIES; PROVIDING FOR MUNICIPAL POWERS; PROVIDING FOR THE CITY COMMISSION AS THE CITY'S LEGISLATIVE AND GOVERNING BODY; PROVIDING FOR OFFICERS AND EMPLOYEES; PROVIDING FOR CITY ELECTIONS; PROVIDING FOR MUNICIPAL FINANCE; PROVIDING FOR CITIZEN BOARDS AND COMMITTEES; PROVIDING FOR GENERAL AND TRANSITIONAL PROVISIONS; PROVIDING FOR EFFECT ON EXISTING LAWS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE OF ORDINANCE; AND PROVIDING FOR EFFECTIVE DATE OF PROPOSED CHARTER ENACTMENT.

WHEREAS, the Clewiston City Charter was created by Chapter 10433 Special Laws of Florida, enacted in 1925 with amendments thereto enacted in 1927, 1929, 1941 and 1947; and

WHEREAS, the Clewiston City Commission has considered the recommendations of its Charter Review Committee and has concluded that it is in the best interests of the citizens of the City of Clewiston to repeal in its entirety the Clewiston Charter, as amended, and to call for a referendum election in accordance with the provisions of Section 166.031, for the electorate of the City of Clewiston to consider a new Charter.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF CLEWISTON, FLORIDA.

SECTION 1. CITY CHARTER REPEALED. Subject to approval by the electorate at a referendum election held on November 4, 2008 pursuant to the provisions of this Ordinance, the existing Charter of the City of Clewiston created by Chapter 10433 Special Laws of Florida, enacted in 1925 with amendments thereto enacted in 1927, 1929, 1941, and September 30, 1947 is hereby repealed in its entirety.

SECTION 2. CITY CHARTER ENACTED. A new Charter of the City of Clewiston is hereby enacted to read as follows:

CHARTER OF THE CITY OF CLEWISTON

ARTICLE I

CORPORATE EXISTENCE, FORM OF GOVERNMENT AND CHARTER

SEC. 1.01. FORM OF GOVERNMENT

The City of Clewiston, Florida shall continue to be a body politic and corporate under the name of the City of Clewiston, Florida and, as such, shall have perpetual succession. The City of Clewiston shall hereafter continue to exist as a "Commission-Manager" form of government.

SEC. 1.02. CITY BOUNDARIES

The boundary description of the City is on file in the office of the City Clerk.

ARTICLE II

MUNICIPAL POWERS

SEC. 2.01. GENERAL

(a) The City of Clewiston shall have all the governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services as provided by the Constitution of the State of Florida and by Section 166.021 of the Florida Statutes and may exercise any power for municipal purposes except as expressly prohibited by law or this Charter.

(b) The City of Clewiston may use a corporate seal; may sue and be sued; may contract and be contracted with; may plead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Florida or any agency thereof, the federal government or any agency thereof, or any political subdivision of the State of Florida; and shall have all the powers granted to cities by the constitution and laws of the State of Florida together with all the implied powers necessary to carry into execution all the powers granted.

(c) The City may own or acquire property within and without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation; may sell, lease, hold, manage, control and police any property now owned by it or which it may hereafter acquire, and shall have the right to lease or let its property whether inside or outside of the City limits, subject to the limitations hereinafter set out, and may

construct, own, lease, operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the City by the issuance and sale of bonds, warrants or notes of the City; may appropriate the money of the City for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitary and other regulations; may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the City, for the performance of the functions thereof, and for the order and security of its residents; may provide suitable penalties for the violations of any ordinance enacted by the City of Clewiston; and, except as prohibited by the constitution and laws of this state, or as restricted by this Charter, the City may exercise and shall have all municipal powers, functions, rights, privileges, authorities and immunities, of every name and nature whatsoever.

SEC. 2.02. GENERAL POWERS ADOPTED

The enumeration of the particular powers of this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the City shall have and may exercise all powers of local self-government and all other powers which, under the constitution and laws of the State of Florida, it would be competent for this Charter specifically to enumerate.

ARTICLE III

THE CITY COMMISSION

SEC. 3.01. NUMBER, SELECTION AND TERM.

The legislative and governing body of the City shall consist of five Commission members and shall be known as the "City Commission of the City of Clewiston, Florida." The members of the City Commission holding office on the effective date of this Charter shall continue in office until the expiration of their terms and until their successors are qualified and elected. The general election for the election of City Commissioners will be held on the first Tuesday after the first Monday in November of each even numbered year. At each general election, three (3) Commissioners shall be elected; the two (2) candidates receiving the greatest number of votes shall be deemed elected for four-year terms, and the candidate receiving the next greatest number

of votes shall be deemed elected for a two-year term. Any person who is a resident of the City of Clewiston, who has qualified as an elector of this state, and who registers in the manner prescribed by general law and ordinance of the City shall be a qualified elector of the City and shall be entitled to vote at all elections of the City. The City Commission shall by ordinance prescribe the rules and regulations governing all elections to be held under this Charter, provided that the provisions of such ordinances shall not be in conflict with the provisions of this Charter and the Constitution of Florida. Any matter or thing pertaining to elections held under this Charter that is not contained herein and covered hereby and is not contained and covered by any City Ordinance shall be governed by the general laws of the State of Florida pertaining to elections. No person shall be eligible for election as City Commissioner who is not a qualified elector of the City of Clewiston.

SEC. 3.02. QUALIFICATION OF COMMISSION MEMBERS.

In addition to any other qualifications prescribed by law, each Commission member shall meet the conditions of this Charter and shall reside within the City limits while in office. Any member of the City Commission ceasing to possess any of the qualifications specified in this section, or convicted of a felony while in office, shall immediately forfeit such position.

SEC. 3.03. COMPENSATION AND BENEFITS.

Compensation for Commission members shall be as established by City Ordinance. All Commission members shall be entitled to participate in the City's health insurance, life insurance, and dental insurance programs under the same terms and conditions as all City employees.

SEC. 3.04. ORGANIZATION.

During the first regular meeting in December of each general election year, the City Commission shall hold an organization meeting, and from their number appoint by majority vote, the Mayor and Vice Mayor. The Mayor shall have all the powers and duties as a Commission member, including the power to vote, and shall preside at the meetings of the Commission, represent the City in intergovernmental relationships, appoint with the advice and consent of the Commission the members of citizen advisory boards, committees, and commissions, and perform other duties as specified by the Commission. The Mayor shall be recognized as head of the government for

all ceremonial purposes and by the Governor for the purpose of military law. The Vice Mayor shall serve in the absence of the Mayor and shall have all the powers and duties thereof.

SEC. 3.05. VACANCIES, FORFEITURE AND FILLING OF VACANCIES

(a) Vacancies. The office of a Commission member or office of the Mayor shall become vacant upon such person's death, acceptance of a resignation by the City Commission, removal from office in any manner authorized by law or forfeiture of office.

(b) Forfeiture. A member of the City Commission shall forfeit his or her office if such person:

(1) During his or her term of office lacks any qualification at any time for the office prescribed by this Charter or by law;

(2) Violates any express prohibition of this Charter;

(3) Is convicted of a crime involving moral turpitude; or

(4) Fails to attend three (3) consecutive regular City Commission meetings without being excused by the City Commission.

(c) Filling of Vacancies. In the event that a vacancy occurs in the City Commission due to the death, disability, disqualification, resignation or removal of a City Commissioner, the remaining Commissioners, by a majority vote, shall appoint a qualified person to fill such vacancy to serve for the remainder of the unexpired term. Any person appointed shall be qualified for the office as required by this Charter.

SEC. 3.06. POWERS OF THE CITY COMMISSION

Except as this Charter provides otherwise, all legislative powers of the City shall be vested in the Commission. The Commission shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the City by law.

SEC. 3.07. PROHIBITIONS

(a) Holding Other Office. Except where authorized by law, members of the City Commission shall not hold any other City office or City employment during their terms, and no former member of the City Commission shall hold any compensated appointive City office or City employment until one (1) year after the expiration of his or her term as a member of the City Commission. No member of the City Commission shall, during the term for which elected or appointed and for one (1) year thereafter, be appointed City Manager.

(b) Appointments and Removals. Neither the City Commission nor any of its members shall in any manner dictate the appointment or removal of any City administrative officer or employee that the City Manager or any subordinates are empowered to appoint.

(c) Interference with Administration. Except for the purpose of inquiry and investigation as provided by this Charter, the City Commission and its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Commission nor its members shall give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.

SEC. 3.08. MEETINGS OF CITY COMMISSION

The City Commission shall hold at least one (1) regular meeting each month and as many additional meetings as it deems necessary to transact the business of the City. The City Commission shall fix, by ordinance, the date and time of the regular meetings. Special meetings of the City Commission shall be held on the call of the Mayor or a majority of the City Commission members.

SEC. 3.09. CONFLICT OF INTEREST AND ABSTENTION

(a) Conflict of Interest. No member of the City Commission, the Mayor, or any other officer, whether elected, appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, shall participate in a vote or decision on a matter involving a business entity in which such officer has a substantial interest if it is reasonably foreseeable that an action on the matter would confer an economic benefit on the business entity. If the officer or a person related to the officer within the second degree of affinity or consanguinity has a substantial interest in the business entity that would be pecuniarily affected by an official action of the City Commission, the officer, if a member of the City Commission, shall file Memorandum, Form 8(B), with the City Clerk stating the nature and extent of the interest and abstain from further participation in the matter.

(b) Abstention. Should any member of the City Commission choose to abstain from voting on any question before the City Commission, where no declared conflict of interest exists, the abstention shall be recorded as an affirmative vote in favor of the motion pending before the City Commission in the official minutes of the City of Clewiston.

ARTICLE 4
CITY ELECTIONS

SEC. 4.01. ELECTIONS

(a) Election Schedule. The general election for the election of City Commissioners will be held on the first Tuesday after the first Monday in November of each even numbered year, or as determined by the Hendry County Supervisor of Elections in conformance with the General Election Laws of Florida. The City Commission may order a special election for ordinances, bond issues, charter amendments, recall or other purposes deemed appropriate by the City Commission. The City Commission will fix the time and place for such special elections and arrange with the Hendry County Supervisor of Elections to provide all means for holding same.

(b) Publicizing City Elections. All municipal elections shall be publicized in a manner consistent with the requirements of the present and all future amended editions of the Florida Election Code.

SEC. 4.02. FILING FOR OFFICE AND ELIGIBILITY TO FILE

- (a) Each candidate for an elective office shall meet the following qualifications:
- (1) Be a citizen of the United States who is a registered elector of Hendry County Florida, and who resides within the City of Clewiston.
 - (2) Shall have resided, for at least twelve (12) months preceding the date of the election, within the corporate limits of the City.
- (b) No employee of this City shall continue in such position after filing for an elective office provided for in this Charter.

ARTICLE 5
OFFICERS AND EMPLOYEES

SEC. 5.01. BOND

The City Commission shall require bonds of all municipal officers and employees who receive and/or pay out any monies of the City. The amount of such bonds shall be determined by the City Commission and cost thereof shall be borne by the City.

SEC. 5.02. CITY MANAGER

(a) Appointment and Qualifications. The City Commission shall appoint a City Manager who shall serve as the chief administrative and executive officer of the City, and be

responsible to the City Commission for the administration of all the affairs of the City. The City Manager shall be chosen by the City Commission on the basis of education, executive and administrative training, experience and ability, and need not, when appointed, be a resident of the City of Clewiston; but, each City Manager, upon appointment must become, within three (3) months, a resident of the City of Clewiston. The City Commission shall fix the initial compensation received by the City Manager and the compensation may be amended from time to time as determined by the City Commission. The performance of the City Manager shall be evaluated at least once a year by the City Commission.

(b) Powers and Duties. The City Manager shall have the following powers and duties:

(1) To ensure that all laws, provisions of this Charter, ordinances and other acts of the City Commission are faithfully executed.

(2) To appoint, supervise, discipline, demote, suspend or remove any City employee or appointed administrative officer, except the City Attorney and City Engineer, when deemed necessary for the good of the City, subject to City ordinances and City Personnel Policies.

(3) To direct, supervise and be responsible for the administration of all departments, divisions, offices and positions of the City government, and to delegate to subordinate officers and employees those powers which are necessary or expedient to the proper management, control and function of such departments, divisions, offices and positions.

(4) To attend all meetings of the City Commission.

(5) To keep the City Commission fully advised as to the financial condition and needs of the City and to submit for its consideration an annual budget.

(6) To perform such other duties as may be prescribed under this Charter or as may be required by ordinance, resolution, or vote of the City Commission.

(7) To purchase services, supplies, materials and equipment subject to City ordinances and resolutions; provided that such purchases are otherwise in conformance with the requirements of this Charter and general law. No contract shall be let for the construction of public improvements except in accordance with the directions of the City Commission.

(8) To sign such contracts, bonds and agreements of the City as required by this Charter or ordinances of the City or as directed by the City Commission.

(9) To be responsible for the collection of all revenues and monies due the City and maintenance of proper records of such collections. Shall disburse funds appropriated by the City Commission and shall maintain proper records of such disbursements.

(10) To maintain a uniform system of accounts in which shall be entered all financial transactions of the City. Shall establish and require the maintenance of a uniform system of accounting for each administrative department, division, office or position of the City.

(11) To perform such other duties as may be prescribed under this Charter or as may be required by ordinance or resolution of the City Commission.

(12) To designate a qualified city administrative officer to assume and exercise the powers and duties of his or her office during temporary absence or disability. The person so selected shall be designated "Acting City Manager." During the temporary absence or disability of the City Manager, the City Commission may revoke such designation at any time and appoint another qualified administrative officer of the City to serve as acting City Manager until the return to duty of the City Manager. No member of the City Commission shall serve as acting City Manager, unless the Commission shall deem the situation to be an emergency, in which case it shall require at least four (4) affirmative votes to declare such emergency.

(c) Removal of the City Manager. The City Manager shall serve at the pleasure of the City Commission and may be removed with or without cause subject to the provision of an employment agreement, if applicable.

SEC. 5.03. CITY CLERK

The City Manager shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of the Commission meetings, shall attend all meetings in person, shall keep minutes of its proceedings, shall authenticate by signature and record in full, all minutes in a book kept for that purpose. The City Clerk shall authenticate by signature and is custodian of this Charter, all ordinances, resolutions, and other City documents and shall perform such other duties as required by law or the City Manager. The City Clerk may be removed from office by the City Manager.

SEC. 5.04. POLICE DEPARTMENT

There shall be established and maintained a Police Department to preserve order within the City and to secure the residents of said City from violence, and the property therein, from injury or

loss. The Chief of Police shall be the chief administrative officer of the Police Department, and shall appoint and remove the employees of the department. The Chief of Police shall be appointed by the City Manager for an indefinite term. The Chief of Police shall be fully responsible to the City Manager for the administration of the department and for the carrying out and enforcement of the resolutions and ordinances of the City Commission. The Chief of Police may be removed from office by the City Manager.

SEC. 5.05. FINANCE DEPARTMENT

There shall be established and maintained a Finance Department for the custody and disbursement of City funds and monies. The Director of Finance shall be the chief financial officer of the Finance Department who shall render a complete and composite statement of receipts, deposits and disbursements as the City Manager shall require; assist all departments with their budgetary functions and maintain a general accounting system; audit and approve all bills before payment; and shall serve as chief purchasing officer of the City unless allowed to delegate this function by the City Manager. The Director of Finance shall appoint and remove the employees of said department and shall perform other duties as may be required by the City Manager. The Director of Finance shall be appointed by the City Manager for an indefinite term. The Director of Finance may be removed from office by the City Manager.

SEC. 5.06. CITY ATTORNEY

(a) Appointment and Qualifications. The City Commission shall appoint a competent, duly qualified, licensed and practicing attorney in the State of Florida, who shall serve as the City Attorney. The City Attorney shall serve at the pleasure of the City Commission.

(b) Duties. The City Attorney shall be required to:

- (1) Serve as a legal advisor to the City Commission and City Manager;
- (2) Represent the City in litigation and legal proceedings as directed by the City Commission and City Manager; and
- (3) Review and provide opinions as requested by the City Commission or City Manager on contracts, legal instruments and ordinances of the City;

(c) Compensation. The City Attorney shall receive compensation as may be determined by the City Commission.

(d) Additional Attorneys. The City Attorney, with approval of the City Commission, may select additional attorneys to act for the City Attorney and the City in its representation and litigation.

SEC. 5.07. CITY ENGINEER

(a) Appointment and Qualifications. The City Commission shall appoint or hire a competent, duly qualified, registered and practicing professional engineer in the State of Florida who shall serve as City Engineer. The City Engineer shall have a principal area of knowledge in civil engineering. The City Engineer shall serve at the pleasure of the City Commission.

(b) Duties. The City Engineer shall be required to serve as engineering advisor to the City Manager and City Commission, and perform such other duties as may be required by the City Manager or City Commission.

(c) Special Engineering Services. The City Manager, with the approval of the City Commission, shall have the right to retain special engineering services at any time deemed necessary and appropriate.

(d) Compensation. The City Engineer shall receive compensation as may be determined by the City Commission.

(e) Term City Engineer. The term "City Engineer" may refer to an individual or firm.

SEC. 5.08. OTHER DEPARTMENTS

The City Manager may, with ratification of the City Commission, create new departments, abolish or consolidate offices and departments, may divide and subdivide the administration of any department, except those specifically established by this Charter.

SEC. 5.09. PERSONNEL SYSTEM

(a) Employee Relations. Except for the purposes of inquiry, the City Commission and its members shall deal with the City administrative services solely through the City Manager. Neither the City Commission nor any of its members, either individually or collectively, shall exercise any authority over any officer or employee of the City subordinate to the City Manager. Neither the City Commission nor any of its members, either individually or collectively, shall direct or request or participate in the appointment, discipline, demotion, promotion, suspension or removal of any administrative officer or employee under the City Manager or his

subordinates. Any inquiry pertaining to any position, function, power or duty of an administrative officer or employee, shall be directed to the City Manager.

(b) Personnel Policies. Personnel rules shall be prepared by the City Manager and presented to the City Commission for approval by resolution. The adopted rules shall establish the City as an equal opportunity employer and shall govern the equitable administration of the personnel system of the City. The adopted rules shall provide for the following requirements, among others:

(1) A personnel classification, pay and benefit plan for all City employment positions.

(2) A plan for working hours, attendance policy and regulation, and provision for sick leave, vacation and designated holiday leave.

(3) Procedures providing due process for the hearing and adjudication of employee complaints.

(4) Additional practices and procedures necessary to the beneficial and equitable administration of the City's personnel system.

(5) A plan for written evaluation on an annual basis for all City employees by their immediate supervisors including evaluation of the City Manager by the City Commission.

ARTICLE 6

Municipal Finance

SEC. 6.01. FISCAL YEAR

The fiscal year of the City shall begin on the first day of each October and end on the last day of September of the succeeding year. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year, and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year, except as provided in this Charter. Any revenues uncollected at the end of any fiscal year and any unencumbered funds actually on hand shall become resources of the next succeeding fiscal year.

SEC. 6.02. SUBMISSION OF BUDGET

On or before the fifteenth day of August of each year, unless the City Commission has granted an extension, the City Finance Director shall file with the City Manager who shall submit to the City Commission a proposed budget for the ensuing fiscal year and the budget message. The City Commission shall hold the required public hearings and review the proposed budget and make any appropriate changes prior to adopting the final budget.

SEC. 6.03. BUDGET

(a) Content. The budget shall provide a complete financial plan of all City funds and activities and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Commission may require. A budget message explaining the budget both in fiscal year and in terms of the work programs shall be submitted by the City Manager with the budget. The budget message shall outline the proposed financial policies of the City for the ensuing fiscal year; describe the important features of the budget; and indicate any major changes from the current year in financial policies, expenditures and revenues, with reasons for such changes. It shall also summarize the City's debt position and include such other material as the City Manager deems desirable. The budget shall begin with a clear, general summary of its contents; and shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. The proposed budget expenditures shall not exceed the total of estimated income and unencumbered funds from previous years. The budget message shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year, compared to the estimate for the budgeted year. The budget shall include in separate sections:

- (1) A clear, general summary of contents.
- (2) A consolidated statement of receipts and expenditures of all funds listed and itemized individually.
- (3) An analysis and itemization of all estimated income of the City from surplus, miscellaneous income and taxes, with miscellaneous income sub-classified by source.
- (4) Tax levies, rates and collections for the preceding three (3) years.

(5) An itemized statement for pending and proposed new capital projects, including but not limited to the amounts to be appropriated from the budget, the amounts to be raised by the issuance of bonds, and the amount required for the operation and maintenance of the new projects;

(6) The amount required for interest on the City's debts, for sinking funds and for maturing serial bonds;

(7) The total amount of the City's outstanding debts, with a schedule of maturity on bond issues in an attachment;

(8) An itemized estimate of the expenses of operating each department, division, and office or agency;

(9) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition, and subsidiary budgets for each such utility giving detailed income and expenditure information attached as appendices to the budget;

(10) A reserve/contingency fund not less than ten percent (10%) of the proposed expenditures for the major operating funds.

(11) Such other information as is required by City Commission or deemed desirable by the City Manager.

(b) At a regular or special meeting the City Commission may adopt the budget with or without amendment. In amending the budget, it may add or increase any programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.

(c) The City Commission shall adopt the budget by Resolution. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

SEC. 6.04. AMENDMENTS AFTER ADOPTION

(a) Supplemental Appropriations. If, during the fiscal year, the City Manager certifies that there are revenues available for appropriation in excess of those estimated in the budget, the City Commission may make supplemental appropriations to fund other appropriations as desired.

(b) Emergency Appropriations. At any time in any fiscal year the City Commission may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than regular or recurring requirements, affecting life, health, property or the public peace.

(c) Reduction of Appropriations. If, at any time during the fiscal year, it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, the City Manager shall report to the City Commission the estimated amount of deficit, any remedial action taken and recommendations as to any other steps to be taken. The City Commission shall then take such further action that it deems necessary to prevent or minimize any deficit.

(d) Transfer of Appropriations. At any time during the fiscal year, the City Manager may transfer part or all of any unencumbered appropriation balance among departments, offices or agencies of the City.

(e) Limitations. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance.

(f) Effective Date. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section shall be made effective immediately upon adoption of the appropriate ordinance or budget amendments.

SEC. 6.05. CAPITAL PROGRAM

The City Manager shall submit a five-year capital program as an attachment to the annual budget. The program, as submitted, shall include:

- (a) A clear, general summary of its contents;
- (b) A list of all capital improvements which are proposed for the five (5) fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvements;

(c) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

SEC. 6.06. PUBLIC RECORDS

Copies of the budget and the capital program, as adopted and amended shall be made available at the public library for on-site inspection and use.

SEC. 6.07. PURCHASING

The City Commission may, by ordinance, confer upon the City Manager general authority to contract for expenditures without further approval of the City Commission for all budgeted items not exceeding limits set by the City Commission. All contracts for expenditures involving more than the set limit must be expressly approved in advance by the Commission. All contracts or purchases involving more than the limits set by the City Commission shall be awarded to the lowest bidder whose submittal is among those most responsive to the needs of the City after there has been opportunity for competitive bidding as provided by law or ordinance; provided that the City Commission, or City Manager, when authorized to contract for the City, shall have the right to reject any and all bids. Emergency contracts as authorized by law and this Charter may be negotiated by the City Commission, or City Manager, if given authority by the City Commission, without competitive bidding. Such emergency shall be declared by the City Manager and approved by the City Commission or may be declared by the City Commission.

SEC. 6.08. ADMINISTRATION OF BUDGET

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or the City Finance Director first certifies that there is a sufficient unencumbered balance in such allotment or appropriations, and that sufficient funds therefore are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter will be void and any payment so made, illegal. Such action shall be the cause for removal of any officer who knowingly

authorized or made such payment or incurred such obligations and such person shall also be liable to the City for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

SEC. 6.09. DEPOSITORY

All monies received by any person, department or agency of the City for, or in connection with, the affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the City Commission in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance and Florida Law. Procedures for the withdrawal of money or the disbursement of funds from the City depositories shall be prescribed by ordinance.

SEC. 6.10. FINANCIAL REPORT

The City Manager shall submit to the City Commission at its regular meeting each month the financial condition of the City by budget item, budget estimate versus accruals for the preceding month and for the fiscal year to date. The financial records of the City will be maintained on an accrual basis to support this type of financial management.

ARTICLE 7

Citizen Boards and Committees

SEC. 7.01. AUTHORITY

The City Commission shall create, establish or appoint, as may be required by the laws of the State of Florida, such citizen boards and committees as it deems necessary to carry out the functions and obligations of the City. The City Commission shall, by ordinance, prescribe the purpose, composition, functions, duties, accountability and tenure of each board, Commission and committee, where such are not prescribed by law. Individuals may be appointed to serve on more than one (1) board, Commission or committee. The City Commission may, by ordinance,

consolidate the functions of the various boards, Commissions or committees of the City. The City Commission may appoint certain ad hoc committees by resolution.

SEC. 7.02. QUALIFICATIONS

Members of all boards, Commissions and committees must be qualified voters and be residents of the City of Clewiston for at least six (6) months preceding the date of appointment, be knowledgeable in the affairs of the City and be knowledgeable in the functions and activities provided for in this article.

SEC. 7.03. GENERAL

(a) Open Meetings. All meetings of any board, Commission or committee created, established or appointed by this Charter or the City Commission shall be open to the public, unless otherwise permitted by law and shall be subject to both current and future laws of the State of Florida concerning public meetings.

(b) Appeals to City Commission. An appeal may be taken to the City Commission from any decision of any board, Commission, committee or other body except from decisions where the appeal is otherwise prescribed by law.

(c) Compensation. Subject to the provisions of any law of the State of Florida or this Charter to the contrary, all members of any board, Commission, committee or other body will serve without compensation but may be reimbursed for any necessary expenses as a result of their work.

(d) Minutes. All boards, Commissions or committees of the City shall keep and maintain minutes of any proceedings held and shall submit minutes of such proceedings to the City Clerk.

(e) Exclusion of City Officers and Employees. Neither officer of the City nor any person who holds a compensated appointive position with the City shall be appointed to any board, Commission or committee created or established by this charter other than in an ad hoc advisory committee.

ARTICLE 8
General and Transitional Provisions

SEC. 8.01. REARRANGING AND RENUMBERING

The City Commission shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto as it shall deem appropriate, and upon the passage of any such ordinance a copy thereof, certified by the City clerk, shall be forwarded to the Secretary of State for filing.

SEC. 8.02. EXISTING RIGHTS, OBLIGATIONS, DUTIES, RELATIONSHIPS AND POWER.

All right, title and interest in property, uncollected taxes due, claims, judgments, decrees, liens, suits, actions and choices in action held or owned by the existing City shall pass to and are hereby vested in the City as continued under this Charter. All rights, obligations, duties and relationships now existing by law or agreements between the City and other governmental units shall be unaffected and shall remain in full force and effect. No debt or obligation of the City shall be impaired as a result of the adoption of this Charter and all such debts and obligations shall pass to and be binding upon the City, re-organized and continued by this Charter. The powers and authority existing pursuant to any charter act of the Special Laws of Florida continue in effect.

SEC. 8.03. RIGHTS OF OFFICERS AND EMPLOYEES.

Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights, privileges or immunities of those who are City officials or employees at the time of the adoption of this Charter. Elected officials shall continue to hold their offices for the terms prescribed by the Charter of the City in effect on the date of their election.

SECTION 3. EFFECT ON EXISTING LAWS.

All ordinances, portions thereof, resolutions, contracts, bonds, obligations, rules and regulations now in force under the City government of Clewiston, and not in conflict with the provisions of this Charter, shall remain in force under this charter until altered, amended or repealed by the City Commission after the Charter takes effect.

SECTION 4. SEVERABILITY

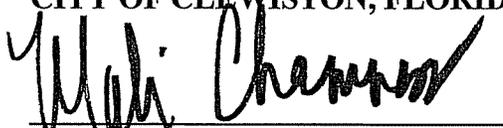
If any section or part of this Charter is held invalid by a court of competent jurisdiction, such holding shall not invalidate or impair the validity, force or effect of any other section or part of a section of this Charter.

SECTION 5. EFFECTIVE DATE OF ORDINANCE.

INTRODUCED AND READ by title only this 28th day of July 2008.

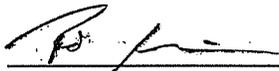
PASSED AND ADOPTED after the public hearing this 21st day of August 2008

CITY OF CLEWISTON, FLORIDA



Mali Chamness, Mayor

ATTEST:



Richard Miller, City Clerk

(SEAL)