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WHEREAS, the City has sought competitive bids for energy saving solutions;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION  
OF THE CITY OF OAKLAND PARK, FLORIDA, THAT:**

**SECTION 2.** The City Commission of the City of Oakland Park, Florida hereby accepts the recommendation as submitted by the City's selection committee and determines that Energy Systems Group, LLC is the most responsible and most responsive bidder for energy saving solutions services;

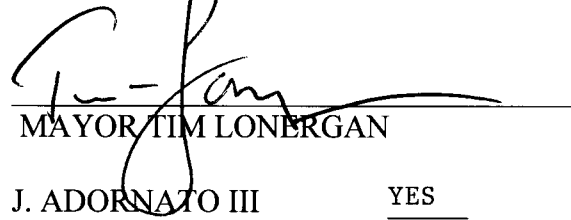
**SECTION 4.** All Resolutions or parts of Resolutions in conflict herewith, be and the same are repealed to the extent of such conflict.

**SECTION 5.** If any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way effecting the validity of the other provisions of this Resolution.

Page 1 of 2

1 **ADOPTED** by the City Commission of the City of Oakland Park, Florida this 2<sup>nd</sup>, day  
2 of November, 2016.  
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6 CITY OF OAKLAND PARK, FLORIDA

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11 MAYOR TIM LONERGAN

12 J. ADORNATO III	<u>YES</u>
13 S. GUEVREKIAN	<u>YES</u>
14 J. SHANK	<u>NO</u>
15 M. CARN	<u>YES</u>
16 T. LONERGAN	<u>YES</u>

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21 ATTEST:

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24 RENEE M. SHROUT, CMC  
25 CITY CLERK

## **Performance Based Contract** **Project Development Agreement**

**City of Oakland Park**  
**3650 NE 12<sup>th</sup> Avenue**  
**Oakland Park, FL 33334**

Between  
And

**Energy Systems Group, LLC**  
**2332 Galiano Street**  
**Coral Gables, FL 33134**

The purpose of this Project Development Agreement ("PDA"), effective the last date signed on this agreement, between Energy Systems Group, LLC ("ESG") and the City of Oakland Park (the "City"), is to conduct a planning and feasibility study for purposes of developing a **Performance Based Contract** for the design and installation of energy, water, and/or wastewater efficiency and conservation measures pursuant to Florida Statute § 489.145. This PDA will provide the details concerning ESG's scope of work, the obligations of both parties, project parameters to be achieved, the intended outcomes, and a projected contract implementation timeline.

ESG and Customer agree as follows:

1. Development of Performance Based Contract. ESG will provide to the City a Performance Based Contract which will include recommendations regarding the following Improvement Measures:
  - A Scope of Work detailing the specific Improvements Measures ESG proposes to install as part of the prospective Performance Based Contract. See Appendix B for scope description
  - Energy conservations measures (or "ECMs") designed to reduce the consumption and/or usage of energy and infrastructure needs, within the facilities owned by the Customer. Potential ECMs and infrastructure needs include, but are not limited to:
    - Interior and Exterior Lighting Upgrades
    - Decorative/Ballpark, and Street Light Upgrades
    - Energy Management System (EMS) Control Upgrades and Expansion
    - Water Conservation
    - HVAC System Upgrades
    - Solar Photovoltaic Arrays
    - Roof Replacements
    - Fleet Management Optimization via software upgrade for Waste Collection Fleets
    - Smart Water Meters/AMI Upgrade
    - Energy Efficient Transformers
    - Computer Management
    - Demand Response Program
    - Rainwater Harvesting
    - Window Films
    - Energy Efficient Motors
    - VFD's on Fans
    - Weatherization

*Note: The above measures (in addition to others that may be identified) will be evaluated in detail during the IGA. The final list of recommendations will be based on the economics of each measure, and customer input regarding prioritization. Appendix-A lists each of the above measure and the corresponding facility to which it applies.*

- A description of the savings methodology used to project billable usage increase and energy and operational savings.
- A description of utility meter reading and billing benefits that reduce the City's operating costs.
- A projection of the improved water system's accuracy and resulting increased billable usage projection resulting from the equipment and procedures recommended.

- A project implementation schedule.
- Project funding options.

The City agrees to fully cooperate with ESG in its gathering of necessary information and documentation concerning current energy, operational, and related costs associated with the anticipated ECMs.

2. Preparation of Performance Based Contract

ESG and the City intend to negotiate a Performance Based Contract under which ESG will design, install, and implement the Improvement Measures that will adhere to performance standards as agreed upon by both ESG and the City. The terms and provisions of such Contract will be set forth in a separate document. ESG will prepare and submit to the Customer a Performance Based Contract to implement the Improvement Measures identified. This Contract shall be prepared on standard ESG contract forms and will include, but will not be limited to, the following components:

- Terms and Conditions, a template will be provided for review during the development process
- Exhibit A - Scope of Work
- Exhibit B – Performance Guarantee
- Exhibit C – Support Service Annual Agreement
- Appendix

3. Financial and Utility Data Collection

During the project development process, the City will furnish to ESG, upon its request, accurate and complete data concerning the existing water meter inventory (brand name, size, age, and serial number) and billing extraction data (meter information should be current and can be collected by the City during its next meter reading cycle), detailed operating costs, and budgets. In addition, the City will furnish accurate and complete energy and water usage and/or consumption data on its existing facilities.

4. Price and Payment Terms

ESG is undertaking work pursuant to this PDA at its cost and under consideration of the City's good faith intention to negotiate a Performance Based Contract. The City agrees to pay to ESG a fee of **\$31,500** (the "PDA Fee") within forty-five (45) days of receipt of the Performance Based Contract should the Customer decline to enter into the Performance Based Contract with ESG.

Customer has no obligation to pay the PDA Fee if one of the two (2) conditions listed below are met:

- ESG and the City agree to enter into a Performance Based Contract within forty-five (45) days of City's receipt of the same. In such event, ESG and the City agree that any and all obligations under this PDA will have been fulfilled and satisfied and that this PDA will be superseded by the Performance Based Contract in its entirety. Further, in such event, ESG's actual project development costs will be included within the total cost of Performance Based Contract, subject to any payment terms outlined therein.
- Pursuant to Florida Statute § 489.145(4)(b), the amount of projected energy savings and cost reductions ESG identifies are unlikely to exceed the amount of the cost savings for up to a maximum term of 15 years after the date of installation of the Improvement Measures. Cost reductions include, but are not limited to energy cost avoidance, utility cost avoidance, negotiated utility rate reductions, operating and maintenance cost avoidance, increased billable water revenues and/or capital cost avoidance.

The City acknowledges that while ESG may have discussed general financial and funding source options with the City for a prospective Performance Based Contract transaction, ESG's performance under this PDA is not contingent upon the City's creditworthiness or ability to qualify or obtain financing for its execution of a Contract. If the City is not able to obtain financing, for any reason, ESG will nonetheless be entitled to receive the PDA Fee identified herein.

5. Contract Implementation and Timeline

The City has reviewed the qualifications of ESG in detail and has selected ESG to perform performance contracting services. The City agrees to work in good faith with ESG during its development of the Performance Contract. City shall provide ESG with access to its facilities during normal working hours for the purpose of gathering information and will cooperate with ESG by providing timely, complete, accurate,

and pertinent information as requested. City understands and appreciates ESG's efforts in developing the Performance Contract; and while City is entitled to decline to enter into a Performance Based Contract, City agrees that in order to aid in ESG's timely completion of the Performance Contract, it will not, for a period of forty-five (45) days following receipt of the Performance Based Contract, actively solicit, review, or consider any proposals that offer to implement the Improvement Measures listed in Section 1 of this PDA. Nothing contained herein shall prevent the City and ESG from good faith negotiations with respect to the execution and implementation of a final Performance Based Contract.

It is the intent and commitment of all parties identified in this PDA to work diligently, and cause others under their direction to work diligently toward meeting or exceeding the following estimated timeline goals:

**ESTIMATED IMPLEMENTATION TIMELINE:**

<b><u>Task or Achievement</u></b>	<b><u>Date</u></b>
Commission Approval of PDA	November 2, 2016
Detailed Development Commence	November 4, 2016
25% Design Review and Approval	November 4, 2016
50% Design Review and Approval	January 3, 2016
75% Design Review and Approval	February 15, 2017
Measurement & Verification (M&V) Workshop	February 15, 2017
Contract Finalized and Review	March 1, 2017
100% Design Review and Approval	March 6, 2017
Commission Approval of the Energy Services Contract	March 22, 2017
Implementation Kickoff	March 24, 2017

**6. Confidentiality**

This PDA creates a confidential relationship between ESG and the City. ESG and the City acknowledge that while ESG performs services under this PDA, ESG and the City will have access to confidential information and intellectual property, including but not limited to cost information, systems, services or planned services, suppliers, data, financial information, computer software, processes, methods, knowledge, ideas, marketing promotions, current or planned activities, research, development, designs, and other trade information and/or intellectual property relating to either ESG or the City ("Confidential Information").

Except as authorized in writing, ESG and the City agree to keep all Confidential Information confidential. ESG may make copies of only that Confidential Information necessary for completing the Performance Contract. Upon either ESG or the City's request, both will return or destroy all such information and all documents, data and other materials in their control that contain or relate to such Confidential Information, with the exception of any such records that are required under ESG's or the City's record retention policy, in which case such records shall otherwise remain subject to the confidentiality obligations described herein.

Notwithstanding anything contained herein to the contrary, the Parties' obligations of confidentiality with respect to Confidential Information shall survive for a period of one year (1) year following expiration of this PDA pursuant to Section 8, below.

The Parties agree to keep and maintain confidentiality regarding its undertaking of the obligations under this PDA. ESG shall coordinate its services only through designated City representatives and shall provide information regarding its project development to only those persons approved by City.

**7. Miscellaneous Provisions**

This PDA cannot be assigned by either party without the prior written consent of the other party. This PDA is the entire PDA between ESG and the City and supersedes any prior oral understandings, written agreements, proposals, or other communications between ESG and the City. Any change or modification to this Agreement will not be effective unless made in writing. This written instrument must specifically indicate that it is an amendment, change, or modification to this PDA.

This PDA shall be enforced and interpreted in accordance with the laws of the State of Florida, except its choice of law provisions. Any difference or dispute arising out of this PDA or relating to this PDA, including, but not limited to, payments under, or the breach, invalidity or termination hereof, which cannot be amicably settled between ESG and the City shall be finally settled by arbitration to occur in the City of Oakland Park, Florida, in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in force on the date of this PDA. Either party shall be entitled to commence such an arbitration if it has served a notice on the other party or parties to the dispute requesting the Parties to meet in order to settle the dispute or difference and the difference or dispute has not been settled by the Parties by agreement within ninety (90) days of the service of such notice. Under no circumstance shall this PDA be considered an agreement for the development of a design criteria package pursuant to Florida Statute § 287.055.

#### 8. Agreement Expiration

This PDA will expire upon the occurrence of any of the following: (a) the Parties' full execution of the Performance Based Contract or a substantially similar version thereof; (b) twenty-four (24) months following the latest date of execution, identified below; or (c) the Parties' written mutual consent to terminate.

City acknowledges that ESG may take a phased approach in its evaluation of City's facilities, infrastructure, and systems; however this PDA can be utilized as a continuing contract for each phase of work and each subsequent project that is developed. The acceptance of any subsequent phased implementation stage will be handled as an amendment to this PDA and, if applicable, the resulting Performance Based Contract. Each time this agreement is utilized for future phases of work the PDA expiration date extends another twenty-four (24) months from date of the PDA amendment's execution.

<b>Energy Systems Group, LLC</b>	<b>City of Oakland Park</b>
Authorized Signature:	Authorized Signature:
Print Name:	Print Name:
Title:	Title:
Date:	Date:

*\* This PDA represents the business intent of both parties and should be executed by the parties who would ultimately be signatories to a final Performance Based Contract.*

## Appendix-A – ECM Matrix

ID	Energy Conservation Measure	City Hall	Public Works/Admin Bldg - 3801 NE 5th Ave.	L Shaped Building - 1101 NE 40th Ct	City Wide	Ballpark	Jaco Community Center	Municipal Bldg - 5399 N Dixie Hwy	Fire Station 9	Fire Station 20	Fire Station 87	Library /Sipher	N Andrews Garden A	N Andrews Garden B
1	Interior Lighting Upgrades (LED)	x	x	x			x	x	x	x	x	x	x	x
2	Lighting Controls	x	x	x			x	x						
3	Exterior Lighting/FDOT Lights/Ballfield Park Lighting Upgrades	x	x	x		x	x	x	x	x	x	x	x	x
4	Energy Management System (EMS)/Controls Upgrade	x	x	x			x	x						
5	Water Conservation	x	x	x			x	x	x	x	x	x		x
6	Heating Ventilation Air-Conditioning (HVAC) System Upgrades	x	x	x				x			x			
7	Solar Photovoltaic (PV) System and Electric Car Charging	x					x							
8	Roof Replacements	x		x										
9	Fleet Management Software for Waste Collection				x									
10	Smart Water Metering/AMI Technology				x									
11	Condensation issues - HVAC System Modifications						x							
<b>Alternates</b>														
A1	Energy Efficient Transformers													
A2	Computer Management													
A3	Emergency Generators/Disaster Preparedness													
A4	Rainwater Harvesting													
A5	Window Films													
A6	Energy Efficient Motors													
A7	Variable Frequency Drives on Fans and Pumps													
A8	Weatherization/Insulation													

**Note:** Benefits from implementation of measures, and their implementation costs, for the General and Enterprise Funds will be kept separate in the analysis. Item-9 Fleet Management Software for Waste Collection, and Item-10 Smart Water Metering/AMI Technology are part of the City's Enterprise Fund, and all remainder measures listed are part of the City's General Fund.

## Appendix B - Development Process Scope of Work:

### ESTIMATED IMPLEMENTATION TIMELINE:

<b>Task or Achievement</b>	<b>Date</b>
Commission Approval of PDA	November 2, 2016
Detailed Development Commence	November 4, 2016
25% Design Review and Approval	November 4, 2016
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75% Design Review and Approval	February 15, 2017
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Contract Finalized and Review	March 1, 2017
100% Design Review and Approval	March 6, 2017
Commission Approval of the Energy Services Contract	March 22, 2017
Implementation Kickoff	March 24, 2017

Commission Approval of PDA	November 2, 2016
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The Project Development Agreement (PDA) will be presented to the Commission for approval. This approval serves as the official beginning to the development effort.

ESG tailors our efforts to not only speed the process, but also ensure that the majority of effort and expense goes into measures that will ultimately be installed and produce dividends for Oakland Park. We understand the expense being undertaken by Oakland Park and want to ensure that every dollar is directed in the most productive manner possible. As such, ESG has fine-tuned our process to a Workshop styled model that incorporates the customer into the very fabric of the project. Through this collaborative process each detail of the project will be discussed, evaluated, and re-evaluated as we approach a final contract. The goal is to bring an idea into light and determine if there is indeed perceived value to Oakland Park. If it is determined there is no value within a particular measure, that individual measure is dropped from consideration at that time. In this way, all further efforts are fully focused on the measures that do bring value. Upon the final iteration of this Workshop process ESG will present Oakland Park with a fully vetted Energy Services Contract for Commission approval.

Detailed Development Commence	November 4, 2016
25% Design Review and Approval	November 4, 2016

It is important to note that due to the competitive process the delineation between the Commencement of Development and the 25% Design Review have somewhat merged. Elements from both have been completed while others are still left to be done.

This will be the first meeting of the full team and serve as a formal development kickoff. All ESG personnel, as well as, all key stakeholders within Oakland Park are strongly encouraged to be attend. The entire process will be discussed to ensure that everyone is on the same page. Upon completion of some of the logistics, there may be certain stakeholders that wish to return to normal daily activities while the remaining team dives deeper into specific operating issues and lay out the plan to see the facilities.

ESG will discuss our thoughts and findings from our review of all information gathered to date with City personnel, to obtain alignment with operational staff. This will provided necessary insight into the true state of the buildings and operations and serve to guide the facility walkthroughs.

A gap analysis will be conducted on the information in hand and the remaining necessary information (examples include but are not limited to: facility drawings, utility bills, existing community plans, water meter routes, water meter historical usages, budgets, operational costs, etc.) will be requested. ESG will study these materials and form a general opinion as to where we believe the opportunities for improvement exist.



ESG will be seeking collaborative interaction with respect to our findings. We will layout all of the potentials for improvement and look to determine what measures make sense and what measures do not. Whatever the reasons for inclusion or exclusion may be it is important to determine where future efforts will be focused.

A network of sub-contractors will also be engaged at this time, with Oakland Park's input.

For the AMI/Smart Metering measure, ESG uses a collaborative approach that focuses on clear and consistent information, gaining input from customer leadership and staff to identify program priorities and to focus our efforts toward a customized solution that meets the City of Oakland Park's goals.

The formal sit down meeting will adjourn and building walks will commence. ESG will visit all of the subject facilities along with knowledgeable chaperones with the intent of performing a detailed investigation into each facility. This is also a point where we practice the 'eyes wide open' approach. Our goal at this stage is to note any and all possibilities that we see for potential improvements. This is without regard to political or financial influence at this time.

Upon completion of the walks ESG will work on compiling the data gathered through the initial interviews and the walks to determine what might be possible. Preparations for the 50% Workshop will begin.

50% Design Review and Approval
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January 3, 2016
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The 50% Workshop is again a time to sit down with the entire team and review the state of the project. ESG will present each measure and the additional work to date. At this time there will be budgetary cost and savings numbers which will serve to generate a rough simple payback figure or return on investment. This additional financial knowledge can then be coupled with the needs of Oakland Park and the desired prioritization.

It is this portion of the process where the true value of Performance Contracting comes to light. For instance, there may be a large piece of HVAC equipment that is failing repeatedly and is past its useful life. It is entirely possible that the payback on this single measure from a utility savings perspective alone is not favorable. Assuming replacement is a priority for Oakland Park, ESG would work to keep this measure in the project and to utilize additional funding from other measures that have quicker paybacks to balance the entire project. This bundling approach is unique to performance contracting and requires great collaboration between ESG and the Oakland Park to reach its full advantage.

Again, discussions will ensue as to whether or not the selected measures are all still valid. If any of the additional information brought to this workshop renders an existing measure in a new light, it is important to realize that. Should any measures shift and be deemed non-viable, they will be dropped from consideration and full attention directed to the remaining project.

Discussions regarding measures that apply to the General and Enterprise Funds will also be discussed and depicted via economic analysis. Benefits from implementation of measures, and their implementation costs, for the General and Enterprise Funds will be kept separate in the analysis. Competitive bidding will be utilized on larger items to ensure best value for the City.

We will likely be making plans to return to the sites from time to time to document existing conditions, perform data logging, and to uncover more details surrounding the measures to be brought forward.

The general steps involved in the AMI/Smart Metering measure take place throughout the entire development process and are summarized as follows:

- Establishing a baseline of O&M savings from historical expenses
- Developing a financial "Cost of Operations" model to compare the operational cost of reading and billing today to the operational costs of reading and billing after a post commissioned AMI initiative
- Develop the statistical sampling model for all sizes of water meters, verifying Oakland Park's acceptable confidence interval expected from the statistic
- Validate the quantities and location of each meter selected to be included in the statistical sampling procedure
- Develop and present a communications plan to Oakland Park detailing ESG's engagement of your customers and the impact to their water meter/water service during this minimally invasive sampling activity

- Present to Oakland Park ESG's method of handling the sampling change-out information and seamlessly integrating this data into your existing billing system
- Present to Oakland Park ESG's quality control plan to ensure meter change-outs occur without risk to health or personal property
- Validate ESG's procedure to remove, package (protect the integrity of sampled meters), ship, and test existing water meters without creating bias in the statistical sampling process
- All meter testing will be based on AWWA testing requirements utilizing a third party lab
- Utilize the test data to draw inference as to the system-wide degradation of water meter
- Construct a financial pro forma demonstrating the impact to water and sewer sales resulting in improving existing meter accuracy.
- Validate Oakland Park's desire for ESG to guarantee meter accuracy
- Establishing a clear understanding of how ESG proposes to guarantee billable revenue increases
- Gaining confirmation from Oakland Park as to the AMI technology and meter choices upon which the initiative will be developed
- Verifying points of contact, protocols, and logistics to be used for site surveys

75% Design Review and Approval
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February 15, 2017
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This Workshop is a continuation of the process but with finer, more realistic detail and financial understanding. ESG should have the lion's share of all measures developed to the point where contractual grade costing and savings numbers are known. We will be able to discuss the project with the team and ensure that there is still full alignment with the needs of Oakland Park. Generally, effort will be put into 'what if' type discussions. What would the project look like if we included all of the measures? What would it look like if we dropped this one? This is the appropriate time to hold these discussions as the contract numbers will be firming up.

This will also be an appropriate time to re-evaluate the team in attendance. Previously, financial discussions have not been predominant. The work has been focused on the buildings and systems themselves, which of course is of little interest to financial officers. Now that the core of the project has been determined, it is necessary to discuss financing and the differing ways with which that can be accomplished. Discussions on financing mechanisms and associated interest rates will enable ESG to development the final project scope, financials, and terms.

ESG uses the American Society of Heating Refrigeration and Air-Conditioning Engineers (ASHRAE) recommended methodologies for the utility baseline, and engineering calculations, which will be discussed in detail during this meeting. Interactive effects between measures will be taken into account in the energy calculations. Commissioning, testing, and balancing, approaches for optimal performance will also be discussed.

Measurement & Verification (M&V) Workshop
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February 15, 2017
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Armed with a substantially complete development effort, it is now time to work through some of the other complimentary aspects of the project such as Measurement and Verification (M&V). ESG utilizes the predominant standard in the Performance Contracting industry as published by EVO. The International Performance Measurement and Verification Protocol (IPMVP) is designed to bring third party perspective to the M&V process. The options within IPMVP are designed to ensure a consistent and accurate measurement of performance while understanding that there is indeed a cost associated with those measurements. ESG will talk through each of the four options (A, B, C, and D) and explain what they mean and the relative costs associated with each. ESG will collaborate with Oakland Park to determine the best fit balance between performance assurance and cost to provide exactly what Oakland Park requires.

An investigation into incentives from the local utilities and other government/non-government agencies will also take place.

Contract Finalized and Review
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March 1, 2017
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This portion of the process is the ironing out of the contractual vehicle with which the project will be executed. Generally, this is a collaboration with contract administrators and the legal arms of ESG and Oakland Park. The final scoping details will be added to the contract template following the 100% Design Review Workshop.

100% Design Review and Approval
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March 6, 2017
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Ideally, this would be the last major workshop gathering of the Development effort. ESG will present the final documents as approved from the February 15<sup>th</sup> step fully populated with all of the final scope, costing, saving, and M&V methodology.

Any necessary tuning of the documents will be performed to prepare for the following step.

Commission Approval of the Energy Services Contract
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March 22, 2017
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ESG will present the project to the Board of Commissioners for commentary and ultimate approval.

Implementation Kickoff
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March 24, 2017
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ESG will hold a kickoff meeting to outline the construction/implementation process, which is another detailed process unto itself.