

## MEMORANDUM

**TO:** Mayor Lauren Poe & Gainesville City Commission

**FROM:** Divest Gainesville

**DATE:** October 18, 2017

**SUBJECT:** Memorandum Regarding a Proposed Ordinance on Vendor Social Responsibility

### Introduction

On August 15, 2017 Mayor Lauren Poe and members of the Gainesville City Commission met with members of Divest Gainesville held meetings to discuss the topic of divestment as it pertains to the City of Gainesville. This memorandum is a follow up to these meetings.

Drafted and submitted by Divest Gainesville, this memo provides informational details on the “Divestment Movement” and its rationale in general and specifically outlines the group’s proposed policy objectives to be considered in the drafting of an ordinance governing the Request for Proposal (RFP) process and associated social responsibility criteria for vendors of the City Of Gainesville Government.

### What is Divest Gainesville?

Divest Gainesville is a community group whose aims include advocating for the divestment of all City of Gainesville financial assets from fossil fuels, petroleum pipelines, private prisons and in particular organizations which directly or indirectly finance and fund such operations.

### Summary of Recommendations

- 1) Pass a socially responsible investment ordinance prioritizing vendors in the RFP process who do *not* fund or otherwise support fossil fuel pipelines, support private prisons, or violate indigenous sovereignty.
- 2) Provide SunTrust Bank with notice of the City’s intention not to renew its contract with SunTrust in 2022.
- 3) Ask the City’s investment advisor to conduct a thorough review of its holdings for fossil fuel and private prison-related stocks.

### Background

#### City Operating Funds with SunTrust Bank

The City of Gainesville has approximately \$120 Million in operating funds, and a contract for banking services with SunTrust Bank for the term of October 2017-2022.<sup>1</sup>

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<sup>1</sup> Conversation between Marina Smerling and Former Finance Director April Shuping July 28, 2017

SunTrust has invested \$435 million dollars in companies that built the Dakota Access Pipeline<sup>2</sup> in violation of Indigenous sovereignty and nation-to-nation treaties and threatening the waters, lands, sacred sites and burial grounds of Indigenous Nations.<sup>3,4</sup>

SunTrust has invested \$105 million in companies building the **Sabal Trail Pipeline**<sup>5</sup>, which threatens to contaminate our water supply, and to disproportionately affect the 80% poor and minority residents along the project's route with threats of explosions and dangerous emissions.<sup>6,7</sup>

SunTrust profits from and enables the expansion of **private prisons** and **immigrant detention centers** by financing the debt of the Geo Group and CoreCivic (formerly Corrections Corporation of America-CCA), two of the largest private prison companies in the world.<sup>8</sup>

SunTrust has extended to CCA a \$65 million dollar loan and a \$132.5 million line of revolving credit, and is part of the syndicate of banks that has extended a \$444 million dollar loan and a \$900 million line of revolving credit to GEO Group.<sup>9</sup>

In Florida, CoreCivic runs two private prisons, one in Lake City, and the other in Lecanto.<sup>10</sup> Geo Group runs two in South Florida, one in Moore Haven, and the other in South Bay.<sup>11</sup>

In 2013, HUD charged SunTrust with **discriminatory lending** and violations of the Fair Housing Act for allegedly denying mortgages to women on maternity leave.<sup>12</sup>

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<sup>2</sup> MacMillan H. & Miles J. (2016, September 6). Who's banking on the Dakota Access Pipeline? *Food and Water Watch*. Retrieved from <http://foodandwaterwatch.org>

<sup>3</sup> Goldtooth, Tom. (2016, September 23). United Nations experts validate Standing Rock Sioux opposition to Dakota Access Pipeline. *Indigenous Environmental Network*. Retrieved from <http://www.ienearth.org>

<sup>4</sup> Perez, M. (2016, October 24). Whose land is it anyway? Why the Dakota Access Pipeline protests aren't really about oil. *University of Miami School of Law Inter-American Law Review* 48(3). Retrieved from <https://inter-american-law-review.law.miami.edu>

<sup>5</sup> See [www.nasdaq.com](http://www.nasdaq.com) institutional holdings for Enbridge, Inc., NextEra Energy, Inc., and Duke Energy Corp., three of the five funders of Sabal Trail

<sup>6</sup> Lipscomb, J. (2017, August 17). Stinky leaks from Florida's controversial Sabal Trail Pipeline scares residents. *Miami New Times*. Retrieved from <http://www.miaminewtimes.com>

<sup>7</sup> Lipscomb, J. (2017, March 7). Sabal Trail Pipeline will be an environmental and economic disaster, critics warn. *Miami New Times*. Retrieved from <http://www.miaminewtimes.com>

<sup>8</sup> In the Public Interest. (2016, November 17). Report: The banks that finance private prison companies. *In the Public Interest*. Retrieved from <https://www.inthepublicinterest.org/>

<sup>9</sup> In the Public Interest. (2016, November 17). Report: The banks that finance private prison companies. *In the Public Interest*. Retrieved from <https://www.inthepublicinterest.org/>

<sup>10</sup> CCA's Nationwide System of Correctional Centers. Retrieved from <http://www.cca.com>

<sup>11</sup> Geo Group Locations. Retrieved from <https://www.geogroup.com>

<sup>12</sup> U.S. Department of Housing and Urban Development. (2013, May 8). HUD and SunTrust Bank settle maternity leave discrimination claims. Retrieved from <https://archives.hud.gov/news/2013/pr13-067.cfm>

In 2012, SunTrust paid \$21 million to the Justice Department to settle **discriminatory lending claims** and violations of the Fair Housing Act for allegedly discriminating against African-American and Hispanic homeowners.<sup>13</sup>

## General Employee Pension Funds

The city's general employee pension fund contains approximately \$355 million in investments.<sup>14</sup> Because the 2016 performance report references benchmarks for each investment manager, and not the actual stocks included in each fund, we can only speculate as to the contents of those funds. We do know that one fund, managed by Harvest Fund Advisors and whose benchmark is Alerian, consists entirely of Master-Limited Partnerships that are energy (and most predominantly) fossil-fuel based. The remaining benchmarks vary in content of fossil-fuel stocks at a rate of 0.83 to 20.47%, and at least one of the benchmarks has 0.26% of its funds in CoreCivic or Geo Group, the largest private prison developers.

More precise information is needed as to the precise stocks selected by each investment manager, but the benchmarks give us an idea that, indeed, a significant portion of Gainesville's General Employee Pension Funds are in the fossil fuel industry, and at least minimally in private prisons.

### Benchmarks & Investment Managers

- Alerian MLP
  - 99.87% fossil fuel
  - *Harvest Fund Advisors MLP*
- Russell 1000 Value Index
  - 20.47% fossil fuel
  - *Barrow, Hanley, Mewhinney & Strauss*
- Russell 1000 Growth Index
  - 0.83% fossil fuel
  - *Brown Advisory*
- Russell 2000 Value Index
  - 9.79% fossil fuel
  - 0.26% private prisons (Geo Group)
  - *Pzena Investment Management*
- Russell 3000 Index
  - 9.79% fossil fuel
  - *Manager unknown*
- MSCI EAFE Growth Index

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<sup>13</sup> The United States Department of Justice. (2012, May 31). Justice Department reaches \$21 million settlement to resolve allegations of lending discrimination by SunTrust mortgage. Retrieved from <https://www.justice.gov/opa/pr/justice-department-reaches-21-million-settlement-resolve-allegations-lending-discrimination>

<sup>14</sup> Summit Strategies Group. (2016, September 30). City of Gainesville General Employees' Pension Fund Board Report. Retrieved from <http://bit.ly/2hHmdVW>

- Roughly 4.38% fossil fuel
  - From Andrew Montes of Fossil Free Funds: Roughly equal to <https://fossilfreefunds.org/funds/FSUSA06EB8/FEUSA04ADR/EFV#31>
- *Baillie Gifford Overseas*
- MSCI EAFE Value Index
  - Roughly 17.06% fossil fuel
    - From Andrew Montes of Fossil Free Funds: Roughly equal to <https://fossilfreefunds.org/funds/FSUSA06EB7/FEUSA04ADQ/EFV#31>
  - *Silchester International Investors*
- Blmbg. Barc. US Govt/Credit
  - Fossil fuel and private prison amounts unknown
    - From Andrew Montes of Fossil Free Funds: “Blmbg. Barc. US Govt/Credit is likely free of any fossil fuel stocks, though there may still be exposure to the fossil fuel industry if there are corporate bonds in the portfolio, or if the bond proceeds are used to finance fossil fuel infrastructure.”
  - *Richmond Capital Management*
- NCREIF Fund Index - real estate-based
  - Fossil fuel and private prison amounts unknown
  - *Principal Global Investors*
- DGI Benchmark
  - Fossil fuel amounts unknown
  - *Disciplined Growth Investors*

### City Employee Purchasing (“P”) Cards

The city currently does approximately \$8 million in business with Bank of America through city employee purchasing (“P”) cards. [Bank of America](#) has similar ties to the fossil fuel and private prison industry as SunTrust.<sup>15</sup> Divest Gainesville would like to see the P cards replaced with a socially responsible credit card company, of which [there are many](#).<sup>16</sup>

### Recommendations

1. The City of Gainesville create a city ordinance establishing criteria for a minimum social responsibility score to be used in the City of Gainesville’s RFP process for all vendors, including
  - a. the city’s operating funds
  - b. the city’s excess funds
  - c. the city’s general employee pension fund investment managers.
  - d. the city employees’ purchasing cards

<sup>15</sup> City Divestment Toolkit: Bank of America. Retrieved from <http://bit.ly/2xWpC9M>

<sup>16</sup> Green America. Find responsible credit cards. Retrieved from <https://www.greenamerica.org>

2. The City of Gainesville create an ordinance whose social responsibility criteria would include, at a minimum, non-investment and non-provision of loans, credit, bonds or similar debt instruments, or underwriting services to:
  - a. Entities organized to carry out the construction of fossil fuel pipelines
  - b. Entities organized to carry out construction of private prisons
  - c. Entities that violate indigenous sovereignty, as defined by the standards set out in the International Finance Corporation's Environmental and Social Sustainability Performance Standard 7; Articles 11, 12, and 25 of the United Nations Declaration on the Rights of Indigenous People; Indigenous People's right to free, prior, and informed consent; and the treaties of the United States.
3. The City of Gainesville provide SunTrust with advance notice of the City's intention not to renew its contract for bank depository services for any of the allowable five one-year extensions beyond its current 2017-2022 term.
4. The City of Gainesville ask its investment advisor to conduct a thorough review of its holdings for fossil fuels and private prison-related stocks. We also recommend that the City look at the risk of these investments and also compare on a risk-adjusted basis similar investments that are fossil-fuel free. Many other esteemed investors such as New York Common and Harvard Endowment have decided to remove fossil fuels from their portfolios.

## **Model Divestment Ordinances and Resolutions**

The following ordinances and resolutions could be used as a model for the City of Gainesville.

### **Oakland, California Ordinance**

<https://drive.google.com/file/d/0B0p0vGF-UJE-aVdVaFZBaFY1eUE/view?usp=sharing>

### **Seattle, Washington Ordinance**

<https://drive.google.com/file/d/0B0p0vGF-UJE-WnJNZDQ1R2dLUVU/view?usp=sharing>

### **Berkeley, California Resolution**

<https://drive.google.com/file/d/0B0p0vGF-UJE-b0I0YUFhb0VfVkk/view?usp=sharing>

### **Missoula, Montana Resolution**

<https://drive.google.com/open?id=0B0p0vGF-UJE-T3ltWW9DUE1fNG8>

### **San Francisco, California Resolution**

<https://drive.google.com/open?id=0B0p0vGF-UJE-MHVEMFEyOUdibUU>

### **Washington, D.C. Resolution**

<https://drive.google.com/open?id=0B0p0vGF-UJE-OWFqU3d5ZHRWdjA>

## **Other Cities with Ongoing Divestment Campaigns**

Alameda, CA

Albuquerque, NM

Bellingham, WA  
Berlin, Germany  
Colorado Springs, CO  
Denver, CO

Los Angeles, CA  
Minneapolis, MN  
New York, NY  
Raleigh, NC

In addition, colleges and universities which have partially or completely divested, or which have taken steps toward divestment, include:

Brevard College (Brevard, North Carolina, USA)  
California Institute of the Arts (Valencia, California, USA)  
California State University, Chico (Chico, California, USA)  
Chalmers University of Technology (Göteborg, Sweden)  
College of the Atlantic (Bar Harbor, Maine, USA)  
College of the Marshall Islands (Marshall Islands)  
Foothill–De Anza Community College District (Foothill College and De Anza College in Cupertino, California, USA)  
Goddard College (Plainfield, Vermont, USA)  
Green Mountain College (Poultney, Vermont, USA)  
Hampshire College (Amherst, Massachusetts, USA)

Humboldt State University (Arcata, California, USA)  
King's College London (London, United Kingdom)  
Pacific School of Religion (Berkeley, California, USA)  
San Francisco State University (San Francisco, California, USA)  
Stanford University (Stanford, California, USA)  
Sterling College (Craftsbury, Vermont, USA)  
The New School (New York, New York, USA)  
Unity College (Unity, Maine, USA)  
University of Bedfordshire (Bedfordshire and Buckinghamshire, England, United Kingdom)  
University of Dayton (Dayton, Ohio, USA)  
University of Glasgow (Glasgow, Scotland, United Kingdom)  
University of Maine System (Maine, USA)  
University of Massachusetts (Massachusetts, USA)

## **Resources for Identifying Socially Responsible Pension Fund Alternatives**

UN Principles for Responsible Investment - <https://www.unpri.org/about>

Divest/Invest - <http://divestinvest.org/>

Carbon Tracker - <http://www.carbontracker.org/>

Intentional Endowments Network - <http://www.intentionalendowments.org>

[Resilient Portfolios & Fossil-Free Pensions](#).<sup>17</sup>

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<sup>17</sup> HIP Investor. Resilient Portfolios & Fossil-Free Pensions. Retrieved from <http://bit.ly/2xWwsvK>

## **Additional Resources**

[Bloomberg article](#) on “the material risk to investors” and pension funds investing in Dakota Access Pipeline.<sup>18</sup>

## **Contact Info**

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<sup>18</sup> Albright, A. (2016, December 1). Investors take stand on Dakota Access Pipeline. *Bloomberg Briefs: Sustainable Finance*. Retrieved from <https://newsletters.briefs.bloomberg.com>