City of Daytona Beach Shores

"Life is Better Here"
"A Premier, Friendly Place to Be"

AGENDA
CITY COUNCIL MEETING
MAY 11, 2021
6:00 PM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118

Upon being recognized, a member of the public shall proceed to the podium and give his or her name and address and may, thereafter, speak for a maximum of three minutes on any matter relevant to a specific agenda item. During "Audience Comments," a member of the public may speak on any matter relevant to City business which is not on the agenda, for a maximum of three minutes in accordance with Section 2-1.1(d) and 2-2 of the City Code. In accordance with Section 2-2, during periods set aside for public discussion any person desiring to speak shall secure a form located at the agenda table, complete the form and present it to the City Clerk so the speaker can be recognized by the presiding officer. The use of profanity, obscene language, threats or any violent or abusive conduct by any person shall constitute a violation of this section. It shall be the duty of the Director of Public Safety, upon the order of the presiding officer at any such meeting, to forcibly, if necessary, evict any person violating the provisions of this section from the Council Meeting Hall. Any such violation shall subject the offender, upon conviction thereof, to a fine and/or imprisonment as prescribed by Section 1-8.

1. CALL TO ORDER BY MAYOR

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Employee Service Awards -
Detective Sergeant Jessica Long 10 years
Mechanic IV David Rodgers 5 years

B. Annual Audit Presentation

6. APPROVAL OF MINUTES

A. City Council Minutes April 13, 2021

7. CONSENT AGENDA:

A. Approval for Interlocal Agreement with County of Volusia for Gas Tax

B. FPL Charging Station Agreement

C. Approval of Sewer Utility Access Easement Agreement with Shores 109, LLC (109 Dunlawton Boulevard)

D. Approval of Cross Access Easement Agreement with Shores 109, LLC (109 Dunlawton Boulevard)

E. Approval of Right-Of-Way License Agreement with Shores 109, LLC (109 Dunlawton Boulevard)

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report

9. REPORTS OF THE CITY MANAGER:

10. OLD BUSINESS:

11. NEW BUSINESS:

A. Special Exception Extension Request by WD Plaza, LLC - 2900 S. Atlantic Ave: Request is for a one year extension of an existing Concession Parking Ancillary Facility

B. Consideration of Telecommunications Contracts for Internet, Phone, and Analog Dialer services

C. Halifax Urgent Care Facility Waiver Consent and Estoppel Agreement

D. Discussion on micro-mobility devices

12. COUNCIL COMMENTS:

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

15. ADJOURNMENT:

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF DAYTONA BEACH SHORES, 2990 S. ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118, TELEPHONE NUMBER 386-7635364, CSCHWAB@CITYOFDBS.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 711 or 1 8009558771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

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MINUTES
CITY COUNCIL MEETING
April 13, 2021
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Councilmember Richard Bryan, Councilmember Richard Frizalone, Vice Mayor Mel Lindauer, Councilmember Michael Politis
Staff: City Clerk Cheri Schwab, City Attorney John Cary, Community Services Director Fred Hiatt, City Planner Stewart Cruz, Finance Director Kurt Swartzlander, and Public Safety Director Stephan Dembinsky.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Employee Service Award - Cheryl Thibault 15 years

Community Services Director Fred Hiatt presented Cheryl Thibault with a 15-year service award.

6. APPROVAL OF MINUTES

A. City Council Economic Workshop Minutes March 23, 2021

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER RICHARD BRYAN to Approve the City Council Economic Workshop Minutes of March 23, 2021.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Councilmember Richard Bryan, Councilmember Richard Frizalone, Vice Mayor Mel Lindauer, Councilmember Michael Politis

B. City Council Minutes March 23, 2021

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR MEL LINDAUER to approve the City Council Minutes of March 23, 2021.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Councilmember Richard Bryan, Councilmember Richard Frizalone, Vice Mayor Mel Lindauer, Councilmember Michael Politis

7. CONSENT AGENDA:

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report

Attorney Cary reviewed his report for the council and answered any questions they had.

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report April 13, 2021

Assistant City Manager/Finance Director Kurt Swartzlander read the City Manager's report for the record. Mayor Miller explained that she would reach out to Bank Of America to speak with someone in their real estate division.

10. OLD BUSINESS:

A. Discussion on Ordinance 2021-02 Micromobility Devices with staff proposals

Community Services Director Hiatt reviewed the proposed changes by staff to the ordinance. The two main changes include not having individual retailers obtain a permit, but instead the parent scooter company would obtain the permit and altering the definition of a retailer to include all hotels.

One of the main concerns of the council was having children operate a scooter without adult supervision. Most felt a valid driver's license should be required to rent a scooter. Attorney Cary explained that the city can only regulate the rental aspect not the operational issues. At this time, the state does not require a license for driving a scooter. CMBR Frizalone suggested that the Mayor reach out to other cities and ask them them to require a driver's license to rent a scooter. If all the cities had the same requirement, it could create a safer

environment on the road and sidewalks.
Jared Root, owner of the parent scooter company explained the rental process and what type of safety and training is provided for instruction. All of his scooters are equipped with lights and bells. It is mostly done through a phone app. He advised the council that anyone can buy a scooter at Walmart and the city would have no control over it. He also stated that much of the riding happened at night after the sun goes down. He felt it could be a challenge to stop them at 9:00 pm.
CMBR Politis felt that the City Attorney and staff should work with Mr. Root to revise the ordinance once again. The council would see another draft for discussion before bringing it for second reading.

Audience member Mickey Pederson is owner of Mickey's Hide-Away and would like to be included on a committee to help assist with the ordinance revision. He stated that he rides late at night and has not had any issue.

11. NEW BUSINESS:

A. Consideration to approve the Second Lease Amendment with Halifax Health

Attorney Cary explained that Halifax Health requested an amendment to the current lease agreement. The reason for the amendment was to increase the allotted parking spaces back to 18 as previously requested. Due to a redesign in the parking area, they lost three spaces. This amendment would ensure they have 18 total spaces for both the Urgent Care and Imaging Center. He recommended approval. The center is still on tract to open July 1st.

B. Discussion on outdoor displays

Mayor Miller had previously requested the council to notice any and all flags or banners that were being displayed in front of businesses. The current code prohibits banner displays without a permit. She felt that a new business should be allowed to display a sign of some sort to allow visitors to know that they are open. Her fear was that if a plaza had 3-4 new businesses open at once, it could look distasteful. The remaining council did not have a problem with this new type of display. Staff will make the appropriate code changes and bring it back for council review.

12. COUNCIL COMMENTS:

Mayor Miller spoke on Van Alder's passing over the weekend. She was glad to have known him and worked well with him on the creation of the dog park. She announced her Coffee with the Mayor the following day. CMBR Bryan mentioned the memorial service for Rita Muffachio at the Drive-In Christian Church on Saturday.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Mr. Yuleri who owns a plaza on S. Atlantic Avenue, requested the council to consider a code change to allow a tattoo parlor to open in one of his storefronts. Mayor Miller informed staff to present the item as a proper agenda item for the next meeting.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

15. ADJOURNMENT:

The meeting ended at 7:37 pm.

MAYOR
NANCY MILLER

CITY MANAGER
MICHAEL T. BOOKER

ATTEST:

CITY CLERK, CHERI SCHWAB

RENEWAL OF INTERLOCAL AGREEMENT FOR DISTRIBUTION OF PROCEEDS OF LOCAL OPTION FUEL TAX

THIS AGREEMENT between the COUNTY OF VOLUSIA, a political subdivision of the State of Florida (County), and the municipalities by which it is executed, provides for the distribution of the proceeds of the 6-Cent Local Option Fuel Tax imposed by the County of Volusia under the authority of Section 336.025(1)(a), Florida Statutes, as amended, and the Additional 5-Cent Local Option Fuel Tax imposed by the County of Volusia under the authority of Section 336.025(1)(b), Florida Statutes, as amended, and Chapter 114, Articles III and VI, County Code of Ordinances, as follows:

1. In addition to any other taxes allowed by law, the 6-Cent Local Option Fuel Tax and Additional 5-Cent Local Option Fuel Tax upon every gallon of motor fuel sold in Volusia County under the authority of the statutes and ordinances referred to above shall be distributed to the County and participating municipal governments in Volusia County.

2. Fifty-seven and two hundred thirty-nine thousandths percent (57.239%) of the 6-Cent Local Option Fuel Tax and Additional 5-Cent Local Option Fuel Tax levied under the authority of the statutes and the ordinances referred to above shall be distributed to the County.

3. Forty-two and seven hundred sixty-one thousandths percent (42.761%) of the 6-Cent Local Option Fuel Tax and the Additional 5-Cent Local option Fuel Tax levied under the authority of the statutes and ordinances referred to above shall be distributed to municipalities within Volusia County. For each calendar year, the 6-Cent Local Option Fuel Tax and the Additional 5-Cent Local Option Fuel Tax; hereinafter referred to as “LOFT”, shall be distributed among the participating municipalities as follows:

   (a) Annual allocation of LOFT accruing to each participating municipality shall be based on the lane miles of public roads maintained by each municipality within their jurisdiction.

(b) The division of LOFT proceeds shall be based on a formula in which the ratio of lane miles of public roads maintained by all participating municipalities shall be calculated each year. A participating municipality's lane miles shall be divided by the combined total lane miles of the participating municipalities in order to determine the participating municipality's distribution allocation. For the purpose of this agreement, the term "lane miles of public roads maintained" means lane miles of driving surface for the maintenance of which the jurisdiction bear the legal responsibility. State Roads, County maintained roads and other roads such as private roads shall be excluded.

(c) The lane miles used for this agreement to determine a participating municipality's distribution allocation were supplied to the County by each municipality. The data provided to the County shall serve as the baseline lane miles (Attachment 1) and will be used for future allocation adjustments referenced in paragraph 3(e) below.

(d) <u>FIVE YEAR AUTOMATIC ANNUAL ADJUSTMENT FOR 2021-2026</u>. The tables below identify the automatic annual adjustments agreed to by the participating municipalities of the annual percentage share for each municipality over the following five year period.

i. From September 1, 2021 through August 31, 2022, as follows:

Participating Municipality	Share
Daytona Beach	7.475%
Daytona Beach Shores	0.992%
DeBary	2.175%
DeLand	2.519%
Deltona	9.528%
Edgewater	2.058%
Holly Hill	1.236%

Lake Helen	0.331%
New Smyrna Beach	3.319%
Oak Hill	0.228%
Orange City	0.864%
Ormond Beach	4.881%
Pierson	0.254%
Ponce Inlet	0.582%
Port Orange	5.002%
South Daytona	1.318%

ii. From September 1, 2022 through August 31, 2023, as follows:

Participating Municipality	Share
Daytona Beach	7.242%
Daytona Beach Shores	0.756%
DeBary	2.312%
DeLand	2.689%
Deltona	9.628%
Edgewater	2.269%
Holly Hill	1.226%
Lake Helen	0.409%
New Smyrna Beach	3.317%
Oak Hill	0.303%
Orange City	0.887%
Ormond Beach	4.675%
Pierson	0.298%
Ponce Inlet	0.511%
Port Orange	4.986%
South Daytona	1.253%

iii. From September 1, 2023 through August 31, 2024, as follows:

Participating Municipality	Share
Daytona Beach	7.009%
Daytona Beach Shores	0.520%
DeBary	2.449%
DeLand	2.858%
Deltona	9.728%
Edgewater	2.480%
Holly Hill	1.215%
Lake Helen	0.487%
New Smyrna Beach	3.316%
Oak Hill	0.379%
Orange City	0.911%
Ormond Beach	4.469%

Pierson	0.342%
Ponce Inlet	0.440%
Port Orange	4.971%
South Daytona	1.188%

iv. From September 1, 2024 through August 31, 2025, as follows:

Participating Municipality	Share
Daytona Beach	6.776%
Daytona Beach Shores	0.284%
DeBary	2.586%
DeLand	3.028%
Deltona	9.828%
Edgewater	2.691%
Holly Hill	1.204%
Lake Helen	0.566%
New Smyrna Beach	3.314%
Oak Hill	0.455%
Orange City	0.935%
Ormond Beach	4.262%
Pierson	0.386%
Ponce Inlet	0.369%
Port Orange	4.955%
South Daytona	1.122%

v. From September 1, 2025 through August 31, 2026, as follows:

Participating Municipality	Share
Daytona Beach	6.543%
Daytona Beach Shores	0.048%
DeBary	2.723%
DeLand	3.197%
Deltona	9.928%
Edgewater	2.902%
Holly Hill	1.194%
Lake Helen	0.644%
New Smyrna Beach	3.313%
Oak Hill	0.530%
Orange City	0.959%
Ormond Beach	4.056%
Pierson	0.430%
Ponce Inlet	0.298%
Port Orange	4.940%
South Daytona	1.057%

(e) <u>ANNUAL ADJUSTMENT ALLOCATION AFTER AUGUST 31, 2026</u>. After the five year phase in of the automatic annual adjustment redistribution allocations described in paragraphs 3(d)i through 3(d)v above, the distribution proportion proceeds of the participating municipalities shall be automatically adjusted annually based on the ratio of lane miles of public roads maintained by all participating municipalities. The participating municipalities shall inform the County, prior to January 1 of each year, of any lane miles added to or removed from its inventory either through acceptance of public road from development, through construction of new roads, through transfers from one jurisdiction to another, or through any other means, in order that the County may determine the revisions to the distribution formula caused by the additions or deletions of lane miles. Prior to May 1 of each year, the County shall recalculate the distribution ratios based upon the updated lane miles maintained provided by the participating municipalities and advise the Florida Department of Revenue and the participating municipalities of the revised percentages the participating municipalities will receive in the next calendar year.

4. Only those municipalities eligible for participation in the distribution of moneys under Parts II and VI of Chapter 218, Florida Statutes, are eligible to receive any portion of the proceeds of the 6-Cent Local Option Fuel Tax and Additional 5-Cent Local Option Fuel Tax imposed by the County. Any funds otherwise undistributed because of ineligibility shall be distributed to eligible governments within the County in the same proportion as the 6-Cent Local Option Fuel Tax and the Additional 5-Cent Local Option Fuel Tax funds distributed to eligible governments.

5. The County and participating municipalities shall utilize moneys received from the 6-Cent Local Option Fuel Tax only for transportation expenditures as provided in Section

336.025(1)(a)1, Florida Statutes, or as may hereafter be provided by law.

6. The County and participating municipalities shall use moneys received pursuant to the Additional 5-Cent Local Option Fuel Tax for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation- related expenditures that are critical for building comprehensive roadway networks by local governments as provided in Section 336.025(1)(b)3, Florida Statutes, or as may hereafter be provided by law. For the purposes of this paragraph, expenditures for the construction of new roads, or the reconstruction or resurfacing of existing paved roads or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures of the Additional 5-Cent Local Option Fuel Tax shall not include routine maintenance of roads. Routine maintenance means minor repairs and associated tasks necessary to maintain a safe and efficient transportation system. The term routine maintenance includes: pavement patching; shoulder repair, cleaning and repair of drainage ditches, traffic signs, and structures; mowing; bridge inspection and maintenance; pavement striping; litter clean up; and other similar activities.

7. For the purposes of this agreement, “transportation expenditures” means expenditures by the local government from local or state shared revenue sources, excluding expenditures of bond proceeds, for the following programs:

    (a) Public transportation operations and maintenance;

    (b) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment;

    (c) Roadway and right-of-way drainage;

    (d) Street lighting installation, operation, maintenance, and repair;

(e) Traffic signs, traffic engineering, signalization, and pavement markings, installation, operation, maintenance, and repair;

(f) Bridge maintenance and operation; and

(g) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks.

8. The County and participating municipalities shall separately budget and account for the 6-Cent Local Option Fuel Tax and the Additional 5-Cent Local Option Fuel Tax in order to segregate expenditures of each tax for compliance with the limitations on expenditures contained in this agreement. In the alternative, the County or a participating municipality may budget and account for the 6-Cent Local Option Fuel Tax and the Additional 5-Cent Local Option Fuel Tax in combination so long as each and every expenditure of either Local Option Fuel Tax is limited to the uses proscribed for the Additional 5-Cent Local Option Fuel Tax as set forth in Section 336.025(1)(b)3, Florida Statutes, or whatever is the most restrictive use of any Local Option Fuel Tax moneys as may be hereafter proscribed by law.

9. This agreement shall apply to the proceeds of the 6-Cent Local Option Fuel Tax and the Additional 5-Cent Local Option Fuel Tax levied on motor fuels sold between 12:01 a.m., September 1, 2020, and midnight, August 31, 2034, whether or not those proceeds are actually collected or received within that period.

10. This agreement shall become effective if, prior to August 31, 2021, it shall have been executed by the County and by participating municipalities representing a majority of the population of the incorporated area of the County. It may be executed by signature on a separate sheet attaching a copy of the agreement. The original agreement with all original signature pages shall be maintained on file in the Office of the County Manager. If it shall

not be executed by the County and by the requisite number of participating municipalities prior to the date set forth above, it shall be of no effect, and any local option fuel tax imposed under this statute referred to above shall be divided as otherwise provided by law.

IN WITNESS WHEREOF, the parties hereto have caused the execution hereof by their duly authorized officials on the dates indicated below.

ATTEST:

COUNTY OF VOLUSIA, a political subdivision of the State of Florida

____
George Recktenwald
County Manager

BY: ______________________________
Jeffery S Brower
County Chair

DATE: ________________________

ATTEST:

CITY OF DAYTONA BEACH, a Florida municipal corporation

BY: ______________________________

____
JAMES V. CHISHOLM
City Manager

DERRICK L. HENRY
Mayor

____
LETITIA LAMAGNA
City Clerk

DATE: ______________________

ATTEST:

CITY OF DAYTONA BEACH SHORES, a Florida municipal corporation

____
MICHAEL T. BOOKER
City Manager

BY: ______________________________
NANCY MILLER
Mayor

____
CHERI SCHWAB
City Clerk

DATE: ________________________

ATTEST:

CITY OF DEBARY, a Florida municipal corporation

BY: ______________________________

____
CARMEN ROSAMONDA
City Manager

KAREN CHASEZ
Mayor

____
ANNETTE HATCH
City Clerk

DATE: ______________________

ATTEST:

CITY OF DELAND, a Florida
municipal corporation

______________________________ BY: ______________________________

MICHAEL PLEUS
City Manager

ROBERT F. APGAR
Mayor

____

JULIE HENNESSY
City Clerk

DATE: ______________________

ATTEST:

CITY OF DELTONA, a Florida municipal corporation

____

BY: _______________________________

JOHN A. PETERS
Interim City Manager

HEIDI K. HERZBERG
Mayor

____

JOYCE RAFTERY
City Clerk

DATE: _______________________

ATTEST:

CITY OF EDGEWATER, a Florida municipal corporation

____
GLENN A. IRBY
City Manager

BY: ______________________________
MICHAEL THOMAS
Mayor

____
ROBIN MATUSICK
City Clerk

DATE: ________________________

ATTEST:

CITY OF HOLLY HILL, a Florida municipal corporation

BY: ______________________________

CHRIS VIA
Mayor

____
JOE FORTE
City Manager

____
VALERIE MANNING
City Clerk

DATE: ______________________

ATTEST:

CITY OF LAKE HELEN, a Florida municipal corporation

____

LEE EVETT
Interim City Administrator

BY: ______________________________

DAISY RAISLER
Mayor

____

LAUREN OLSEN
City Clerk

DATE: ______________________

ATTEST:

CITY OF NEW SMYRNA BEACH, a Florida municipal corporation

_______________________________ BY: _______________________________

KHALID RESHEIDAT
City Manager

RUSS OWEN
Mayor

____

KELLY McQUILLEN
City Clerk

DATE: ________________________

ATTEST:

CITY OF OAK HILL, a Florida municipal corporation

BY: ______________________________

____
KOHN EVANS
City Administrator / City Clerk

DOUGLAS A. GIBSON
Mayor

____

____
Witness

DATE: ______________________

ATTEST:

CITY OF ORANGE CITY, a Florida municipal corporation

____
DALE ARRINGTON
City Manager

BY: _______________________________
GARY BLAIR
Mayor

____
MELANI BERINGER, CMC
City Clerk

DATE: ________________________

ATTEST:

CITY OF ORMOND BEACH, a Florida municipal corporation

BY: ____________________________

BILL PARTINGTON
Mayor

____

JOYCE SHANAHAN
City Manager

____

COLBY J. CILENTO
City Clerk

DATE: ________________________

ATTEST:

TOWN OF PIERSON, a Florida municipal corporation

BY: ______________________________

SAMUEL G. S. BENNETT
Mayor

____

CARMEN M. SPELORZI
Town Administrator / Town Clerk

____

____
Witness

DATE: ______________________

ATTEST:

TOWN OF PONCE INLET, a Florida municipal corporation

____

JEANEEN C. WITT
Town Manager

BY: _________________________________

GARY L. SMITH
Mayor

____

KIM CHERBANO
Deputy Clerk

DATE: ______________________

ATTEST:

____
JAMIE MILLER
Interim City Manager

____
ROBIN FENWICK
City Clerk

DATE: _______________________

CITY OF PORT ORANGE, a Florida municipal corporation

BY: ______________________________
DONALD O. BURNETTE
Mayor

ATTEST:

CITY OF SOUTH DAYTONA, a Florida municipal corporation

BY: ______________________________

____
LES GILLIS
City Manager

WILLIAM C. HALL
Mayor

____
DEBBIE FITZGERALD
City Clerk

DATE: ________________________

Attachment 1

2021 Baseline Lane Miles - Municipalities		
Jurisdiction	**Lane Miles**	**Percent of Lane Miles**
Daytona Beach	579.12	15.300%
Daytona Beach Shores	4.21	0.111%
DeBary	241.01	6.368%
DeLand	283.01	7.477%
Deltona	878.80	23.218%
Edgewater	256.85	6.786%
Holly Hill	105.66	2.792%
Lake Helen	56.97	1.505%
New Smyrna Beach	293.25	7.748%
Oak Hill	46.95	1.240%
Orange City	84.85	2.242%
Ormond Beach	359.04	9.486%
Pierson	38.08	1.006%
Ponce Inlet	26.37	0.697%
Port Orange	437.23	11.552%
South Daytona	93.57	2.472%
Total	**3,784.97**	**100.00%**

ELECTRIC VEHICLE CHARGING EQUIPMENT AGREEMENT

This ELECTRIC VEHICLE CHARGING EQUIPMENT AGREEMENT ("Agreement") is made this 2nd day of April, 2021 ("Effective Date"), by and between the city of Daytona Beach Shores ("Host"), with a location at 3000 Bellemead Drive, Daytona Beach Shores, FL 32118 (the "Property") and Florida Power & Light Company, a Florida corporation ("Company"), with an address at 700 Universe Blvd CEA/JB, Juno Beach, FL, 33408. Host and Company are sometimes individually referred to herein as a "Party" and collectively as the "Parties."

WHEREAS, Company desires to install and own electric vehicle charging and related equipment, including electrical power inverters, interconnection equipment, electrical wiring, underground conduit, wire and cable management systems, charging stations, electric meters, metering and switch cabinets, and power distribution boxes (the "Equipment") on the Property and Host desires to have the Equipment installed and agrees to permit Company to utilize the Property upon the terms and conditions set forth below.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Use. During the Term, Host agrees that Company may use the Property for the purposes of, and has the sole right (at Company's cost and in Company's sole discretion) of, constructing, installing, operating, inspecting, maintaining, repairing, enlarging, modifying, removing (at any time), testing and replacing the Equipment and any additional equipment required to dispense electricity to charge electric vehicles, together with the following rights: (a) the right of ingress and egress 24 hours-a-day, 7 days a week; (b) the right, at Company's sole cost and expense, to paint/stripe and to install signage (in either case, in a manner substantially similar to the form attached hereto as Exhibit B) on and around the Equipment; and (c) Company's quiet enjoyment of the Property needed for purposes of this Agreement shall not be disturbed. The location of the Equipment is as described in Exhibit A. In the event that Company, in its sole discretion, determines that an easement is necessary for the sole purpose of connecting the Equipment to the electrical grid, then Host shall grant Company an easement in a mutually agreeable location in, on, over, under, through and across a portion of the Property to be identified by the Parties in the form attached hereto as Exhibit C.

2. Term. Subject to this Section 2, the initial term of this Agreement shall terminate on the tenth (10th) anniversary of the date on which commissioning for the Equipment was completed (the "Initial Term"), and unless terminated earlier as herein provided, shall automatically renew on a year-to-year basis after the Initial Term until the thirteenth (13th) anniversary of the date on which commissioning for the Equipment was completed (each year, a "Renewal Term," and each Renewal Term together with the Initial Term, the "Term"). If either Party elects not to renew this Agreement for a Renewal Term, then such Party must give a written notice of termination to the other Party at least 90 days prior to the expiration of the then-current Initial Term or Renewal Term, as applicable. In the event such notice is delivered, no further automatic extensions shall occur and this Agreement shall terminate at the end of the then-existing Initial Term or Renewal Term, as applicable. The Company may terminate this Agreement at any time and for any reason by giving 30 days' prior written notice to Host.

3. Cooperation. In general, the Parties agree to cooperate to achieve the purposes and intent of this Agreement. Host shall cooperate as necessary with Company (at no cost to Host) in Company's efforts to obtain all permits, licenses and approvals necessary for the installation and operation of the Equipment. Company will not permit any lien against the Property arising from the installation or operation of the Equipment. Company shall (i) pay any personal property tax which is attributable to the Equipment, and (ii) be the sole recipient and beneficiary of any and all such federal and/or state tax credits, and other financial incentives arising from the installation and/or operation of the Equipment. If Company determines it to be necessary or desirable, the Company may record a memorandum of agreement in the public records of the county in which the Property is located and Host shall sign such memorandum of agreement (if needed). The right to access and use of Host's electrical system(s) includes for purposes of powering Company's computer equipment used in monitoring the electricity dispensed from the Equipment and record system data to evaluate charging behavior. Host understands and acknowledges that Company and/or its contractors will gather data and information from the Equipment with respect to vehicle charging activity, vehicle usage and technical performance of the vehicle and Equipment. Company shall own all rights to such data and information. Host acknowledges that such data and information will be used and disclosed by Company and third parties for the purpose of understanding and evaluating the impact of electric vehicles on transit systems and the electric power grid, for use in regulatory reporting, industry forums, case studies or other similar activities, in accordance with applicable laws and regulations. The Host will share information requested by the Company (including, but not limited to, baseline data requests, electric vehicle information and user surveys).

4. Payment of Electricity. Without limiting Section 5, Host is responsible for paying all consumption costs for electricity dispensed from the Equipment at the rate paid by Host based on the Host's then-current Company-tariffed rate; provided, however, Company will provide a separate invoice to the Host for electricity dispensed from the Equipment. Company will install a meter for the Equipment on the Property. Notwithstanding anything to the contrary herein, to the extent that the Florida Public Service Commission approves Company's rate schedule for Utility-Owned Public Charging for Electric Vehicles (Pilot Program) (No. 8.936) ("Tariff") permitting Company to directly charge users of the Equipment for use of (including for electricity dispensed from) the Equipment and such Tariff remains in effect, then the foregoing provisions shall not apply and Company shall be responsible for paying all consumption costs for electricity dispensed from the Equipment pursuant to such approved Tariff.

5. Charge for Use of Equipment. Host agrees that users of the Equipment will be charged (a) a rate that does not exceed [$.03] (or such other rate limit provided by Company to host in writing from time to time) for the consumption costs for electricity dispensed from the Equipment and (b) vehicle idling fees (after a grace period determined by Company) at a rate equal to [$.40] per minute or such other rate as provided by Company to Host in writing from time to time. The charges to be paid by such users will be collected by a third party provider contracted by Company. On a quarterly basis, such third party provider will remit to Host all charges collected from all the users of the Equipment pursuant to Sections 5(a) and (b) above, excluding any associated transaction fees collected by such third party provider. Notwithstanding anything to the contrary herein, to the extent that the Florida Public Service Commission approves the Tariff permitting Company to directly charge users of the Equipment for use of (including for electricity dispensed from) the Equipment and such Tariff remains in effect, then the foregoing provisions shall not apply (including Host's ability to charge users of the Equipment and Company's obligation to remit any charges to Host) and Company shall be entitled to charge users of the Equipment pursuant to such approved Tariff.

6. Interference. During the Term, Host shall not Interfere, or cause or permit to be caused any Interference, with the Equipment. For purposes of this Agreement, "Interfere" and "Interference" shall mean interference with Company's use, operation, access, maintenance or repair of the Equipment including: (a) subject any portion of the Equipment to any lien or encumbrance unless the holder thereof delivers a non-disturbance agreement; and (b) sale, transfer, assignment, lease or sublease any portion of the Property other than subject to Host's rights hereunder.

7. Insurance. Each Party will maintain at all times during the Term, the following insurance: (a) commercial general liability insurance with limits of One Million Dollars ($1,000,000) per occurrence combined single limit for bodily injury and property damage; (b) business automobile liability insurance with limits of One Million Dollars ($1,000,000) for bodily injury and property damage; and (c) workers' compensation insurance in compliance with Florida statutes. Such policy or policies shall be issued by companies authorized to do business in the State of Florida with a minimum A.M. Best financial rating of "A– VII". Company has the right to meet the insurance designated in this section through any combination of self-insurance, primary or excess coverage. Each Party, for itself and its respective insurers, waives any right to assert any claim against the other Party to the extent such claim is covered by the waiving Party's insurance. Each Party shall waive all rights of subrogation of its respective insurers.

8. Indemnification. Each Party (the "Indemnifying Party") shall indemnify the other Party (the "Indemnified Party") from and against all losses, claims, damages or expenses, including attorneys' fees, incurred by the Indemnified Party in connection with any claims for personal injury or death to persons and damage to property (including environmental damage) arising under this Agreement during the Term, to the extent arising from the negligence or willful misconduct of the Indemnifying Party, its agents, employees, representatives, contractors, affiliates or sub-contractors. Subject to the next sentence, neither Company nor Host shall be liable to the other for consequential, special, exemplary, punitive, indirect or incidental losses or damages or for any loss of use, cost of capital, loss of goodwill, lost revenues or loss of profit, nor shall any parent, subsidiary, affiliate or employee of either Party have any liability under this Agreement, and Company and Host each hereby releases the other and each of such persons and entities from any such liability. The foregoing exclusion shall not be construed to limit recovery under any indemnity or defense obligation of Host under this Agreement related to third party claims. In no event shall the aggregate damages payable by a Party hereunder for any reason whatsoever exceed Three Hundred Thousand U.S. Dollars ($300,000.00). This section shall survive the expiration or earlier termination of this Agreement.

9. Equipment to Remain Personal Property of Company. The Equipment is and will remain the property of Company, its successors or assigns, regardless of its use or manner of attachment to the Property. Host agrees to execute such further documentation as is reasonably necessary to ensure that the Equipment does not constitute, and is not deemed to be, a fixture attached to the Property.

10. Representations. Each Party represents and warrants to and covenants with the other Party that: (a) such Party has full right, power and authority to execute this Agreement and that this Agreement shall bind and benefit the Parties and their respective successors and assigns; and (b) such Party's execution and performance of this Agreement will not violate any laws, ordinances, covenants or other agreement binding on such Party. Additionally, Host represents and warrants to Company that it has good and unencumbered title to the Property either free and clear of any liens, mortgages or other encumbrances, or if any lien, mortgage or other encumbrance exists, then such lien, mortgage or other encumbrance (or any environmental restriction) will not prevent the performance of this Agreement or burden or encumber the Equipment.

11. Default. An "Event of Default" means that a Party fails to fully perform any of its covenants under this Agreement within sixty (60) calendar days after such defaulting Party receives written notice of such default from the non-defaulting Party; provided, however, if such default cannot reasonably be cured within such sixty (60) day time period, defaulting Party shall not be deemed in default hereunder if defaulting Party has commenced to cure such default within said sixty (60) day time period and thereafter continues with diligence to complete the cure of such default.

12. Remedies. Upon an Event of Default as set forth in Section 11, non-defaulting Party may (i) perform, or cause to be performed, on behalf and at the expense of defaulting Party, any or all of the undertakings or obligations as to which defaulting Party remains in default, in which event defaulting Party will reimburse non-defaulting Party for such actual reasonable costs and expenses, within forty-five (45) days following receipt of invoice and supporting documentation; (ii) exercise any remedy that such non-defaulting Party may have at law or in equity and (iii) terminate this Agreement upon 30 days' prior written notice if the defaulting Party has not cured such default by the expiration of such 30-day period. Notwithstanding the preceding sentence, Host may not perform any right or obligation of Company under Section 1 or take any other action that relocates or physically alters any of the Equipment.

13. Assignment. Neither Party shall assign this Agreement or any interest herein without the prior written consent of the other Party; provided, that the Parties acknowledge that the Equipment may be covered by Company's utility financing structure.

14. Notices. All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to this Agreement shall be in writing, signed by the notifying Party, or officer, agent or attorney of the notifying Party, and shall be deemed to have been effective upon delivery if served personally, including but not limited to delivery by messenger, overnight courier service or by overnight express mail, or on the third (3rd) business day after posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Host: To the address set forth in the Preamble above.

To Company: To the VP of Development at the address set forth in the Preamble above with an e-mail copy to FPLEVolution@fpl.com.

15. No Guarantees or Warranties. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE PARTIES ACKNOWLEDGE THAT COMPANY IS NOT PROVIDING ANY GUARANTEES (INCLUDING GUARANTEES OF PERFORMANCE) OR WARRANTIES OF ANY KIND, WHETHER STATUTORY, EXPRESS, OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE), UNDER THIS AGREEMENT.

16. Additional Equipment. In the event Host desires to have installed on the Property any additional electric vehicle charging and related equipment, the Host shall notify Company, in writing, of such desire and Company shall, within 30 days after the receipt of such notice, notify the Host in writing of the terms and conditions pursuant to which Company is willing to so install such additional equipment. If the Parties cannot agree on the terms and conditions for installing such additional equipment within 60 days after the Host's receipt of Company's terms and conditions, then the Host may engage a third-party to so install such additional equipment; provided, however, the Host shall use commercially reasonable efforts to share (or cause such third party to share) data and information from such additional equipment with respect to vehicle charging activity, vehicle usage and technical performance of the vehicle and such additional equipment.

17. Removal or Sale at End of Term. Within ninety (90) days after the expiration of the Term, Company shall, in its sole discretion, either (a) remove all charging stations installed by Company at the Property under this Agreement or (b) agree to sell such charging stations to Host on terms and conditions mutually agreed upon by the Parties. In the event of removal, Company shall, at Company's expense, return the area where the Equipment was located to a condition substantially similar to prior to the installation of the Equipment, except for any underground infrastructure and concrete equipment pad(s) installed pursuant to this Agreement (which may be left in place) and ordinary wear and tear. Company shall not be obligated to replant trees or shrubs in connection with the foregoing obligations.

18. Miscellaneous.

(a) **Compliance with Laws**. Each Party shall perform its obligations under this Agreement in accordance with all applicable codes, laws, rules, regulations, orders and ordinances of federal, state, regional, local and municipal governmental agencies.

(b) **Amendment**. No modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a Party unless in writing signed by that Party.

(c) **Governing Law; Waiver of Jury Trial**. This Agreement shall be subject to and governed by the laws of the State of Florida, without regard to its conflict of laws principles. The Parties agree that any action or proceeding arising out of or related in any way to this Agreement shall be brought solely in a court of competent jurisdiction in the State of Florida. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT.

(d) **Severability; Counterparts, Publicity**. Should any provision of this Agreement be held, in a final and un-appealable decision, to be either invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, and the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling. This Agreement may be executed in counterparts, which together shall constitute a single instrument. Neither Party shall issue any press release or otherwise publicize the existence or the terms of this Agreement without the prior written approval of the other Party, which approval will not be unreasonably withheld or delayed; provided that general advertising that refers to a "partnering" (or other terminology of similar import) of either Party with the other Party for the purposes of any of the transactions contemplated hereby, but does not expressly reference this Agreement or disclose any of the terms hereof, shall not be subject to the provisions of this subsection. Filings required by applicable law for any regulatory authority shall, by itself, not be deemed to violate the preceding sentence.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

Host:	**Company (Florida Power & Light Company):**
By:____________________ Name: Nancy Miller Title: Mayor	By: ____________________ Name: Title:

Exhibit A—Location of Equipment

Property Address: [3000 Bellemead Drive, Daytona Beach Shores].

Number of Spaces: Up to [4] spaces but beginning with [2].

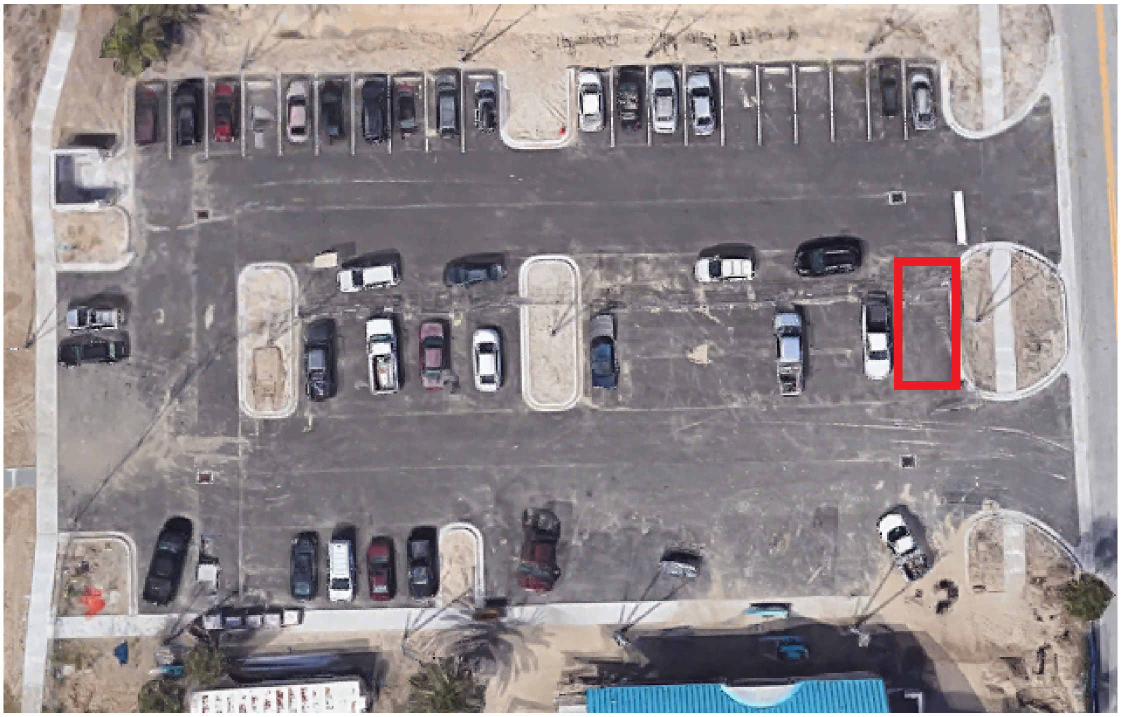
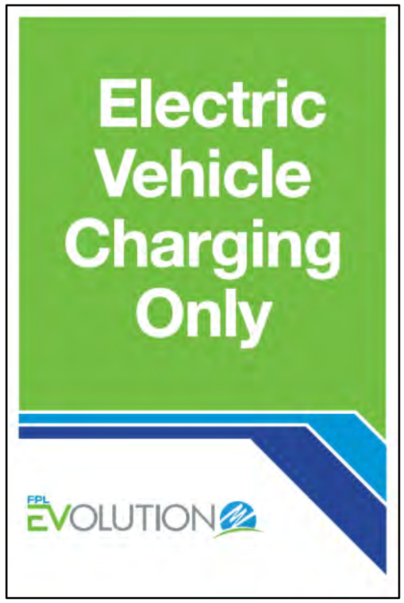
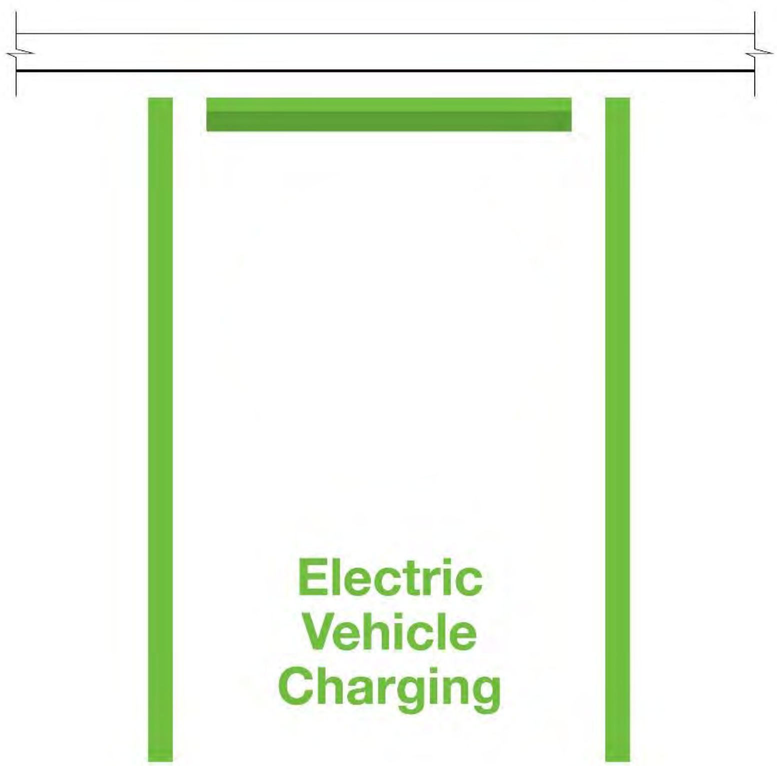


Exhibit B—Form of Signage



Parking Stall Signage (~12" x ~18")



Parking Stall Striping

Exhibit C—Form of Easement Agreement

Work Request No. _____

Sec.__, Twp __ S, Rge __ E

Parcel I.D.____
(Maintained by County Appraiser)

EASEMENT (BUSINESS)

This Instrument Prepared By

Name: ____
Co. Name: ____
Address: ____
____

Reserved for Circuit Court

The undersigned, in consideration of the payment of $1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to Florida Power & Light Company, its affiliates, licensees, agents, successors, and assigns ("FPL"), a non-exclusive easement forever for the construction, operation and maintenance of overhead and underground electric utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the voltage as well as the size of, and remove such facilities or any of them within an easement described as follows:

See Exhibit "A" ("Easement Area")

Together with the right to permit any other person, firm, or corporation to attach wires to any facilities hereunder and lay cable and conduit within the Easement Area and to operate the same for communications purposes; the right of ingress and egress to the Easement Area at all times; the right to clear the land and keep it cleared of all trees, undergrowth and other obstructions within the Easement Area; the right to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the Easement Area, which might interfere with or fall upon the lines or systems of communications or power transmission or distribution; and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereinabove granted on the Easement Area heretofore described, over, along, under and across the roads, streets or highways adjoining or through said Easement Area.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument on ________________, 20__.

Signed, sealed and delivered in the presence of:

____
(Witness' Signature)

Print Name: ________________________________
(Witness)

____
(Witness' Signature)

Print Name: ________________________________
(Witness)

Entity name

By: ________________________________

Print Name: ________________________________

Print Address: ________________________________
____

STATE OF ____________ AND COUNTY OF __________________. The foregoing instrument was acknowledged before me this _____ day of _______________, 20__, by ______________________________, the ________________________ of ________________________ a ______________________________, who is personally known to me or has produced __________________ as identification, and who did (did not) take an oath.
(Type of Identification)

My Commission Expires:

____
Notary Public, Signature

Print Name ______________________

This document prepared by and return to:
John M. Cary, Esq.
Vose Law Firm, LLP
324 W. Morse Blvd.
Winter Park, FL 32789

Short Parcel ID: 5335-03-07-0260

SEWER UTILITIES EASEMENT
SHORES 109, LLC AND CITY OF DAYTONA BEACH SHORES

THIS SEWER UTILITIES EASEMENT is made and entered into this ____ day of _____________, 2021, by and between SHORES 109, LLC, hereinafter referred to as the GRANTOR, whose address is 4190 Halifax Drive, Port Orange, Florida 32127 and the CITY OF DAYTONA BEACH SHORES, a Florida Municipal Corporation, whose address is 2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, hereinafter referred to as GRANTEE.

W I T N E S S E T H:

FOR AND IN CONSIDERATION OF the sum of ONE AND NO/100 DOLLAR ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, GRANTOR does hereby grant and convey to the GRANTEE a perpetual, non-exclusive sewer utility access easement, with full authority to enter thereon, for the purposes of maintaining, repairing and/or replacing the sewer pump station of GRANTEE and to excavate, construct and/or do any and all acts necessary or incidental to such purposes, over, under, upon, and through the following-described lands situate in the County of Volusia, State of Florida, to-wit:

See Exhibit "A".

TO HAVE AND TO HOLD said easement unto said GRANTEE and its assigns forever.

THE GRANTEE and its assigns shall have the right to clear, keep clear and remove from said easement all structures, fixtures, landscaping, undergrowth, and any other obstruction that may interfere with the location, excavation, operation, maintenance, repair or replacement of the sewer pump station or any sewer utility structures installed on the easement by the GRANTEE and its assigns; and the GRANTOR, his successors and assigns, agree not to build, construct, create, or permit others to build, construct or place any buildings, structures, fixtures, pavement or landscaping on the easement that may interfere with the location, excavation, operation, maintenance, repair, or replacement of the sewer pump station or any structures installed by GRANTEE, or its assigns, thereon.

GRANTOR does hereby covenant with the GRANTEE, that it is lawfully seized and possessed of the real estate above described, that it has the plenary good and lawful right to convey the said easement and that it is free from all liens and encumbrances.

IN WITNESS WHEREOF, the GRANTOR has hereunto set his hand and seal, the day and year first above written.

Signed, sealed and delivered
in the presence of witnesses:

SHORES 109, LLC

____
Witness signature

by___________________________________
BRENDAN GALBREATH,
Its Managing Member

____
Printed name

SHORES 109, LLC

____
Witness signature

by___________________________________
SHANNON GALBREATH,
Managing Member

____
Printed name

STATE OF FLORIDA
COUNTY OF VOLUSIA

Sworn to (or affirmed) and subscribed before me by means of ___physical presence or ____online notarization, this ____ day of __________, 2021, by Brendan Galbreath and Shannon Galbreath, who are ____personally known to me or ____who has produced (type of identification) as identification.

____
Notary
(Name typed, printed or stamped)
(Title or rank)
(Serial number, if any)

[Notary Seal]

ADDITIONAL SIGNATURE PAGE FOLLOWS:

AGREEMENT BY CITY OF DAYTONA BEACH SHORES

Terms and Conditions accepted:

Attest:

CITY OF DAYTONA BEACH SHORES

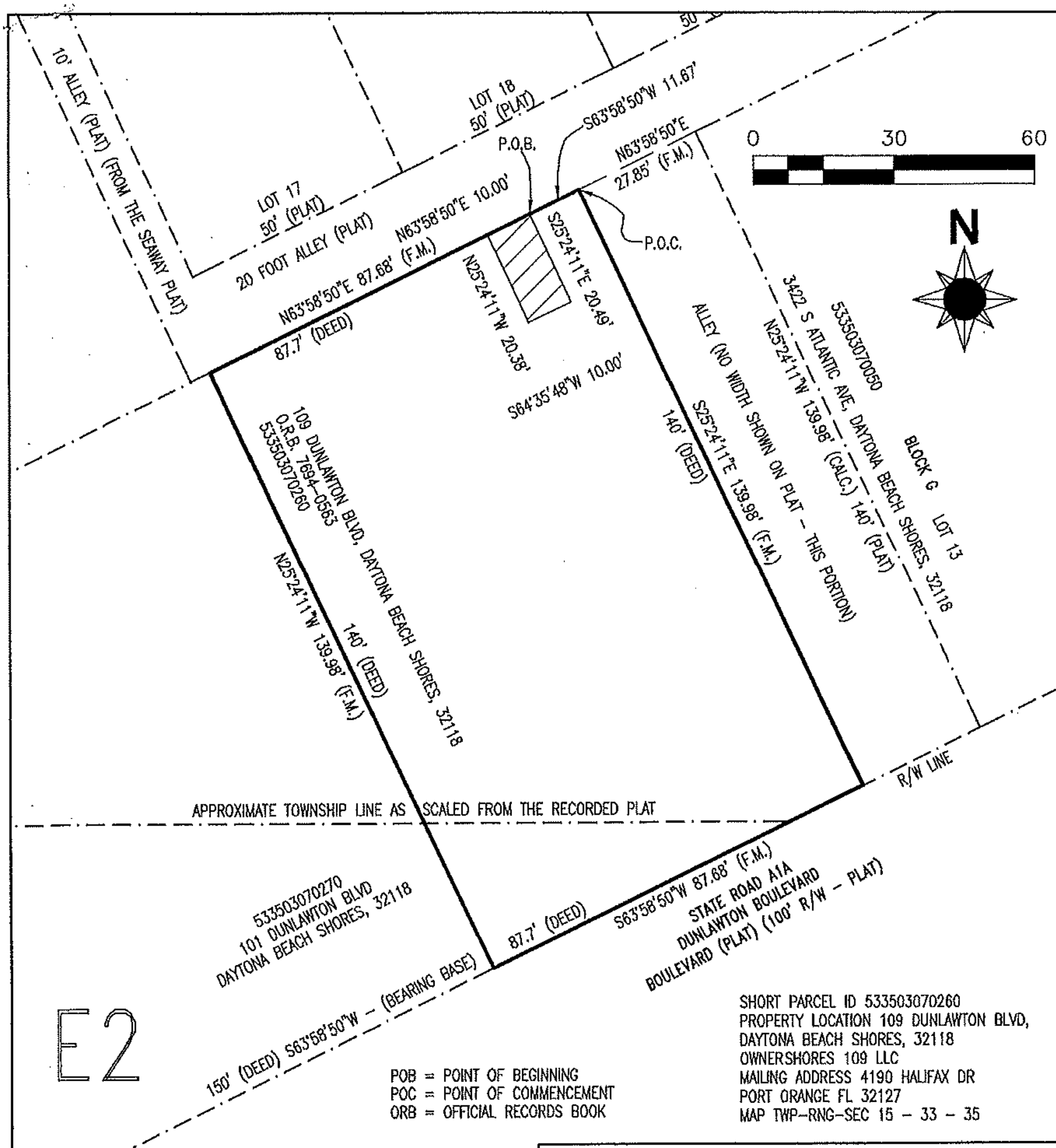
____
Cheri Schwab, City Clerk

____
Nancy J. Miller, Mayor
Date: ______________________

____
Michael T. Booker, City Manager

Approved as to form and legality:

____
John M. Cary, City Attorney



POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
ORB = OFFICIAL RECORDS BOOK

SHORT PARCEL ID 533503070260
PROPERTY LOCATION 109 DUNLAWTON BLVD, DAYTONA BEACH SHORES, 32118
OWNERSHORES 109 LLC
MAILING ADDRESS 4190 HALIFAX DR
PORT ORANGE FL 32127
MAP TWP-RNG-SEC 15 - 33 - 35

SIGNATURE & CERTIFICATION ON SHEET 2 OF 2

NOTES:
1. THIS IS NOT A BOUNDARY SURVEY.
2. OFFICIAL RECORDS BOOK (O.R.B.) AS SHOWN, TO REFERENCE PLAT AND DATA, AS PLAT APPEARS TO LACK ALL DATA.
3. BEARINGS ASSUMED.
4. CONFIGURATIONS OF PARCELS, BY ENGINEER BASED ON PROPOSED SITE PLAN SUPPLIED TO C.L.S., INC.

10-26-2020

SKETCH AND LEGAL DESCRIPTION

PREPARED BY
CULLUM LAND SURVEYING, INC.
5889 S. WILLIAMSON BLVD. 205
PORT ORANGE, FL. 32128
386-761-7666
CULLUMLANDSURVEYING.COM

SCALE: 1"=30'	DATE: 10/26/2020	EASE 2 // 1 OF 2
DRAWN: GSC	CHECKED: GSC	JOB: 2019-100

A PORTION OF OFFICIAL RECORDS BOOK 7694, PAGE 563, WHICH IS DESCRIBED AS

" THE SOUTH 140 FEET OF THE EAST 87.7 FEET OF THE WEST 237.7 FEET OF BLOCK G, EAST OF PENINSULA DRIVE AND INCLUDING LAND ADJOINING SOUTH OF TOWNSHIP LINE, MAP OF VAN VALZAH SUBDIVISION, PORT ORANGE BEACH, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 130, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA ",

AND BEING KNOWN AS PARCEL IDENTIFICATION NUMBER 533503070260, SAID PORTION BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID OFFICIAL RECORDS BOOK 7694, PAGE 563;

THENCE ALONG THE NORTH LINE OF SAID, OFFICIAL RECORDS BOOK 7694, PAGE 563, S63°58'50"W A DISTANCE OF 11.67 FEET TO THE POINT OF BEGINNING;

THENCE departing SAID NORTH LINE, S 25°24'11" E A DISTANCE OF 20.49 FEET;

THENCE S 64°35'48" W A DISTANCE OF 10.00 FEET;

THENCE N 25°24'11" W A DISTANCE OF 20.38 FEET TO SAID NORTH LINE;

THENCE ALONG SAID NORTH LINE, N 63°58'50" E A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

HAVING AN AREA OF 204 SQUARE FEET.

POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
ORB = OFFICIAL RECORDS BOOK

SHORT PARCEL ID 533503070260
PROPERTY LOCATION 109 DUNLAWTON BLVD,
DAYTONA BEACH SHORES, 32118
OWNERSHORES 109 LLC
MAILING ADDRESS 4190 HALIFAX DR
PORT ORANGE FL 32127
MAP TWP-RNG-SEC 15 - 33 - 35

SURVEYOR'S CERTIFICATION:
I HEREBY CERTIFY THAT THIS SURVEY OF THE SUBJECT PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, AS SURVEYED IN THE FIELD UNDER MY SUPERVISION ON THE DATES SHOWN HEREON. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN FLORIDA ADMINISTRATIVE CODE CHAPTER 5J17, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS, PURSUANT TO FLORIDA STATUTES SECTION 472.027, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

10-26-2020

GREGG S. CULLUM P.S.M. #5095 DATE:

E2

NOTES:
1. THIS IS NOT A BOUNDARY SURVEY.
2. OFFICIAL RECORDS BOOK (O.R.B.) AS SHOWN, TO REFERENCE PLAT AND DATA, AS PLAT APPEARS TO LACK ALL DATA.
3. BEARINGS ASSUMED.
4. CONFIGURATIONS OF PARCELS, BY ENGINEER BASED ON PROPOSED SITE PLAN SUPPLIED TO C.L.S., INC.

SKETCH AND LEGAL DESCRIPTION

PREPARED BY
CULLUM LAND SURVEYING, INC.
5889 S. WILLIAMSON BLVD. 205
PORT ORANGE, FL. 32128
386-761-7666
CULLUMLANDSURVEYING.COM

SCALE: 1"=30'	DATE: 10/26/2020	EASE 2 // 2 OF 2
DRAWN: GSC	CHECKED: GSC	JOB: 2019-100

This document prepared by and return to:
John M. Cary, Esq.
Vose Law Firm, LLP
324 W. Morse Blvd.
Winter Park, FL 32789

Short Parcel ID: 5335-03-07-0260

CROSS ACCESS EASEMENT AGREEMENT
SHORES 109, LLC AND CITY OF DAYTONA BEACH SHORES

THIS CROSS ACCESS EASEMENT is made and entered into this ____ day of _____________, 2021, by and between SHORES 109, LLC, hereinafter referred to as the GRANTOR, whose address is 4190 Halifax Drive, Port Orange, Florida 32127 and the CITY OF DAYTONA BEACH SHORES, a Florida Municipal Corporation, whose address is 2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, hereinafter referred to as GRANTEE.

W I T N E S S E T H:

FOR AND IN CONSIDERATION OF the sum of ONE AND NO/100 DOLLAR ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, GRANTOR does hereby grant and convey to the GRANTEE and its assigns, for public use and benefit, a perpetual non-exclusive north-south cross access easement or right of way over and through GRANTOR's parking lot for the purpose of ingress and egress between Dunlawton Boulevard to the south and GRANTEE's east-west public alley to the north, which easement or right-of-way shall be ______ft. in width and run perpendicular to both Dunlawton Boulevard on the south and the public alley on the north as defined and more fully depicted below, to wit:

See Exhibit "A".

TO HAVE AND TO HOLD said easement unto said GRANTEE, its assigns and for the use and benefit of the public forever.

THE GRANTEE, its assigns and the general public shall have the right to open, unencumbered and continuous use and right-of-way over and through GRANTOR's parking lot for ingress and egress between Dunlawton Avenue to the south and GRANTOR's public alley to the north.

THE GRANTOR, its successors and assigns, agree not to build, construct, place, or permit others to build, construct or place any buildings, structures, fixtures (other than surfacing), landscaping or anything which would block, obstruct, hinder or interfere with the free flow or passage across the easement whether of a permanent or temporary nature, unless permitted in writing by GRANTEE or its assigns and which is for the purpose of improving or facilitating use of the right-of-way on the easement. GRANTOR, its successors and assigns shall maintain the cross access easement area in a good and serviceable condition. If for any reason the Grantor does not maintain the cross access easement area in good and serviceable condition, the GRANTEE shall give the GRANTOR written notice of the need for repair/maintenance. The GRANTOR shall make all repairs/maintenance within a reasonable time. If GRANTOR does not repair/maintain the cross access easement area within a reasonable time GRANTEE may make the repair/maintenance and invoice the GRANTOR, its successors and assigns for the cost of repair/maintenance. The GRANTOR shall pay the GRANTEE for those repairs/maintenance within 30 days of said invoice.

GRANTOR does hereby covenant with the GRANTEE, that it is lawfully seized and possessed of the real estate above described, that it has the plenary good and lawful right to convey the said easement and that it is free from all liens and encumbrances.

IN WITNESS WHEREOF, the GRANTOR has hereunto set his hand and seal, the day and year first above written.

Signed, sealed and delivered
in the presence of witnesses:

SHORES 109, LLC

____
Witness signature

by____
BRENDAN GALBREATH,
Managing Member

____
Printed name

SHORES 109, LLC

____
Witness signature

by____
SHANNON GALBREATH,
Managing Member

____
Printed name

STATE OF FLORIDA
COUNTY OF VOLUSIA

Sworn to (or affirmed) and subscribed before me by means of ___physical presence or ____online notarization, this ____ day of __________, 2021, by Brendan Galbreath and Shannon Galbreath, who are ____personally known to me or ____who have produced (type of identification) as identification.

____
Notary
(Name typed, printed or stamped)
(Title or rank)
(Serial number, if any)

[Notary Seal]

ADDITIONAL SIGNATURE PAGE FOLLOWS:

AGREEMENT BY CITY OF DAYTONA BEACH SHORES

Terms and Conditions accepted:

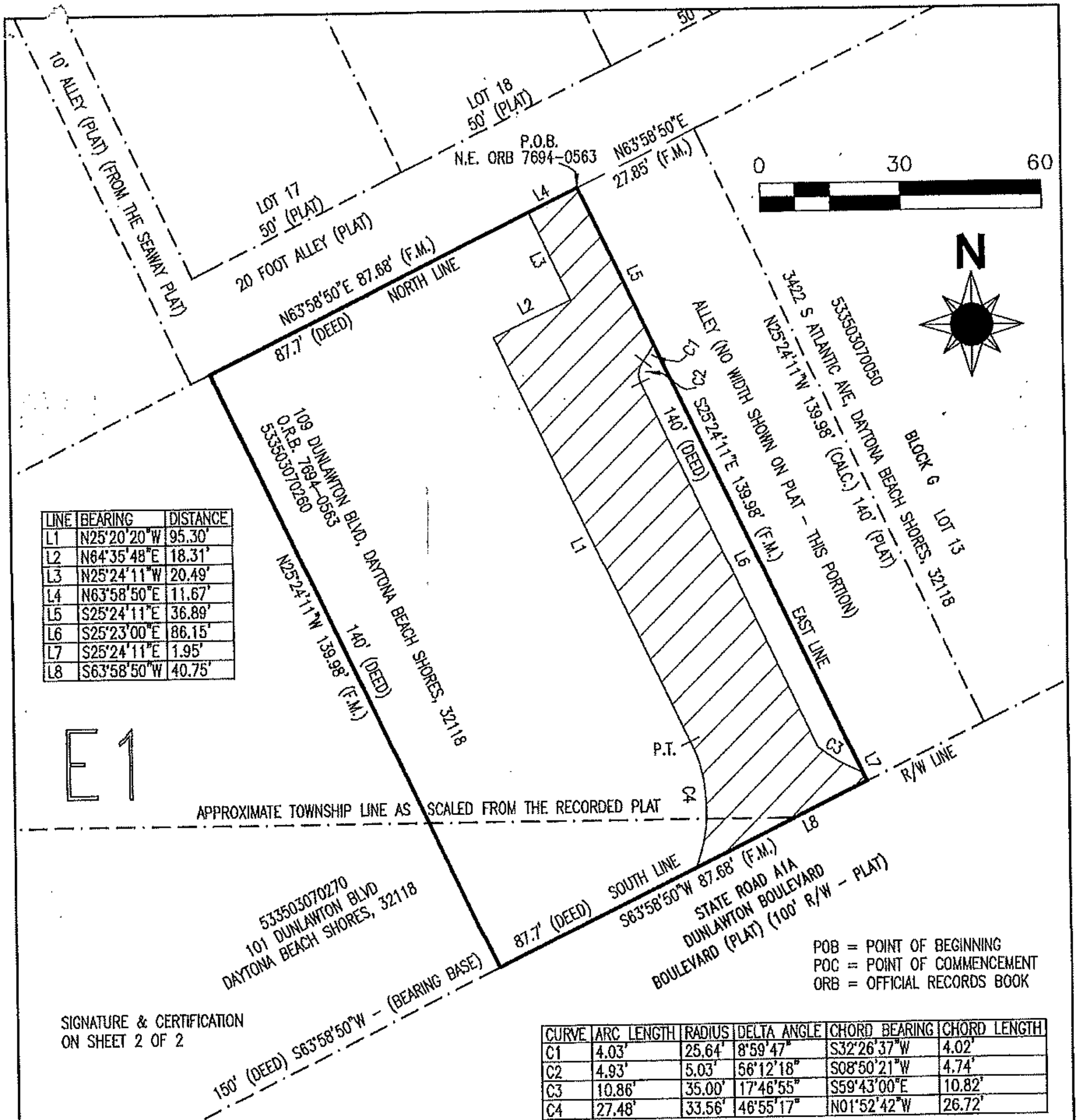
Attest: **CITY OF DAYTONA BEACH SHORES**

___________________________ ___________________________
Cheri Schwab, City Clerk Nancy J. Miller, Mayor
Date: ________________________

____
Michael T. Booker, City Manager

Approved as to form and legality:

____
John M. Cary, City Attorney



LINE	BEARING	DISTANCE
L1	N25°20'20"W	95.30'
L2	N64°35'48"E	18.31'
L3	N25°24'11"W	20.49'
L4	N63°58'50"E	11.67'
L5	S25°24'11"E	36.89'
L6	S25°23'00"E	86.15'
L7	S25°24'11"E	1.95'
L8	S63°58'50"W	40.75'

POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
ORB = OFFICIAL RECORDS BOOK

SIGNATURE & CERTIFICATION
ON SHEET 2 OF 2

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	4.03'	25.64'	8°59'47"	S32°26'37"W	4.02'
C2	4.93'	5.03'	56°12'18"	S08°50'21"W	4.74'
C3	10.86'	35.00'	17°46'55"	S59°43'00"E	10.82'
C4	27.48'	33.56'	46°55'17"	N01°52'42"W	26.72'

SHORT PARCEL ID 533503070260
PROPERTY LOCATION 109 DUNLAWTON BLVD,
DAYTONA BEACH SHORES, 32118
OWNERSHORES 109 LLC
MAILING ADDRESS 4190 HALIFAX DR
PORT ORANGE FL 32127
MAP TWP-RNG-SEC 15 - 33 - 35

NOTES:
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3. BEARINGS ASSUMED.
4. CONFIGURATIONS OF PARCELS, BY ENGINEER BASED ON PROPOSED SITE PLAN SUPPLIED TO C.L.S., INC.

10-26-2020

SKETCH AND LEGAL DESCRIPTION

PREPARED BY
CULLUM LAND SURVEYING, INC.
5889 S. WILLIAMSON BLVD. 205
PORT ORANGE, FL. 32128
386-761-7666
CULLUMLANDSURVEYING.COM

SCALE: 1"=30'	DATE: 10/26/2020	EASE 1 // 1 OF 2
DRAWN: GSC	CHECKED: GSC	JOB: 2019-100

A PORTION OF OFFICIAL RECORDS BOOK 7694, PAGE 563, WHICH IS DESCRIBED AS

" THE SOUTH 140 FEET OF THE EAST 87.7 FEET OF THE WEST 237.7 FEET OF BLOCK G, EAST OF PENINSULA DRIVE AND INCLUDING LAND ADJOINING SOUTH OF TOWNSHIP LINE, MAP OF VAN VALZAH SUBDIVISION, PORT ORANGE BEACH, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 130, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA ", AND BEING KNOWN AS PARCEL IDENTIFICATION NUMBER 533503070260, SAID PORTION BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SAID OFFICIAL RECORDS BOOK 7694, PAGE 563;

THENCE ALONG THE EAST LINE OF SAID OFFICIAL RECORDS BOOK 7694, PAGE 563, S25°24'11"E A DISTANCE OF 36.89 FEET TO A POINT ON A NON-TANGENT CURVE;

THENCE DEPARTING SAID EAST LINE OF OFFICIAL RECORDS BOOK 7694, PAGE 563, ALONG A CURVE BEING CONCAVE NORTHWEST, AN ARC LENGTH OF 4.03 FEET, A RADIUS OF 25.64 FEET, A CENTRAL ANGLE OF 8°59'47", AND A A CHORD BEARING OF S32°26'37"W, 4.02 FEET TO A POINT OF REVERSE CURVATURE;

THENCE ALONG SAID REVERSE CURVE, BEING CONCAVE SOUTHEAST, AN ARC LENGTH OF 4.93 FEET, A RADIUS OF 5.03 FEET, A CENTRAL ANGLE OF 56°12'18", A CHORD BEARING OF S08°50'21"W, 4.74 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE S25°23'00"E A DISTANCE OF 86.15 FEET TO A POINT ON A NON-TANGENT CURVE;

THENCE ALONG SAID NON-TANGENT CURVE, BEING CONCAVE NORTHEAST, AN ARC LENGTH OF 10.86 FEET, A RADIUS OF 35.00 FEET, A CENTRAL ANGLE OF 17°46'55" AND A CHORD BEARING OF S59°43'00"E, 10.82 FEET TO AN INTERSECTION WITH SAID EAST LINE OF SAID OFFICIAL RECORDS BOOK 7694, PAGE 563;

THENCE ALONG SAID EAST LINE, S25°24'11"E A DISTANCE OF 1.95 FEET TO A POINT ON THE SOUTH LINE OF SAID OFFICIAL RECORDS BOOK 7694, PAGE 563, SAID POINT ALSO BEING ON THE NORTH RIGHT OF WAY LINE OF DUNLAWTON BOULEVARD;

THENCE ALONG SAID SOUTH LINE, S63°58'50"W A DISTANCE OF 40.75 FEET TO AN INTERSECTION WITH A NON-TANGENT CURVE;

THENCE DEPARTING SAID SOUTH LINE, AND ALONG SAID NON-TANGENT CURVE, BEING CONCAVE NORTHWEST, AN ARC LENGTH OF 27.48 FEET, A RADIUS OF 33.56 FEET, A CENTRAL ANGLE OF 46°55'17" AND A CHORD BEARING OF N01°52'42"W, 26.72 FEET TO THE POINT OF TANGENCY;

THENCE N25°20'20"W A DISTANCE OF 95.30 FEET;

THENCE N64°35'48"E A DISTANCE OF 18.31 FEET;

THENCE N25°24'11"W A DISTANCE OF 20.49 FEET TO THE NORTH LINE OF SAID OFFICIAL RECORDS BOOK 7694, PAGE 563;

THENCE ALONG SAID NORTH LINE OF OFFICIAL RECORDS BOOK 7694, PAGE 563, N63°58'50"E A DISTANCE OF 11.67 FEET TO THE POINT OF BEGINNING.

HAVING AN AREA OF 3332 SQUARE FEET.

POB = POINT OF BEGINNING
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ORB = OFFICIAL RECORDS BOOK

SHORT PARCEL ID 533503070260
PROPERTY LOCATION 109 DUNLAWTON BLVD,
DAYTONA BEACH SHORES, 32118
OWNER SHORES 109 LLC
MAILING ADDRESS 4190 HALIFAX DR
PORT ORANGE FL 32127
MAP TWP-RNG-SEC 15 - 33 - 35

E1

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<u>SURVEYOR'S CERTIFICATION:</u>
I HEREBY CERTIFY THAT THIS SURVEY OF THE SUBJECT PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, AS SURVEYED IN THE FIELD UNDER MY SUPERVISION ON THE DATES SHOWN HEREON. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN FLORIDA ADMINISTRATIVE CODE CHAPTER 5J17, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS, PURSUANT TO FLORIDA STATUTES SECTION 472.027, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

GREGG S. CULLUM P.S.M. #5095 — 10-26-2020 DATE:

SKETCH AND LEGAL DESCRIPTION

PREPARED BY
CULLUM LAND SURVEYING, INC.
5889 S. WILLIAMSON BLVD. 205
PORT ORANGE, FL. 32128
386-761-7666
CULLUMLANDSURVEYING.COM

SCALE: 1"=30'	DATE: 10/26/2020	EASE 1 // 2 OF 2
DRAWN: GSC	CHECKED: GSC	JOB: 2019-100

This document prepared by and return to:
John M. Cary, Esq.
Vose Law Firm, LLP
324 W. Morse Blvd.
Winter Park, FL 32789

RIGHT OF WAY LICENSE AGREEMENT
SHORES 109, LLC AND CITY OF DAYTONA BEACH SHORES

THIS RIGHT OF WAY LICENSE AGREEMENT is made and entered into this ____ day of _____________, 2021, by and between the CITY OF DAYTONA BEACH SHORES, a Florida Municipal Corporation, whose address is 2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, hereinafter referred to as the GRANTOR, and SHORES 109, LLC, hereinafter referred to as the GRANTEE, whose address is 4190 Halifax Drive, Port Orange, Florida 32127.

W I T N E S S E T H:

FOR AND IN CONSIDERATION OF the sum of ONE AND NO/100 DOLLAR ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, GRANTOR does hereby grant to the GRANTEE a conditional use permit or license for the use of GRANTOR's approximately twenty-eight (28) foot wide public right-of-way (alley), which is parallel to the north-south property line of GRANTEE'S parcel on its easternmost boundary, provided it is used for stormwater system improvements, free restaurant customer parking, monument signage and incidental uses thereto as depicted on the approved site plan for the property located at 109 Dunlawton Boulevard (Short Parcel ID # 5335-03-07-0260). This permit or license is exclusive to the GRANTEE and may not be transferred or assigned without the express written approval of GRANTOR. The GRANTOR expressly reserves use and access of the right-of-way (alley) for other than GRANTEE's use as conditioned herein. The right-of-way is more fully depicted below, to wit:

See Exhibit "A".

TO HAVE AND TO HOLD said license or permit unto said GRANTEE for as long as the business continues its operations as a restaurant without disruption (i.e. closed more than a total of 180 consecutive days in a 12 mos. period, except for development or permitting, fire, flood, hurricane or other disaster) and as otherwise limited and conditioned herein. Upon cessation of its business as provided herein, this license or permit automatically expires and the right-of-way reverts to GRANTOR and GRANTEE shall return the public right-of-way (alley) to its predevelopment condition.

THE GRANTEE, or others on its behalf, shall have the right to seek required permits and, subject to approval thereof, to build, construct or make, any surface, monument signage or stormwater system improvements to the right-of-way, including, by way of example, grading, filling, spreading of gravel, paving with asphalt or concrete, striping and/or placing of parking curb stops or barriers. Work shall be done in accordance with plans as approved by the building and site improvement permit. The GRANTEE, or others on its behalf, shall apply for normal permits and authorizations required by the land development code for stormwater system, monument signage and surface improvements to the right-of-way and shall pay any associated fees, except those exempted by the Development Agreement between GRANTOR and GRANTEE for this development. The GRANTEE shall not build, construct or place, or permit others to build, construct or place, any buildings, structures, fixtures (other than surfacing), landscaping or anything of any nature as would block, obstruct, hinder or interfere with the use of the right-of-way for its intended use under this agreement as a parking area. GRANTEE, its successors and assigns shall maintain the right-of-way in a good and serviceable condition. If for any reason the GRANTEE does not maintain the right-of-way in good and serviceable condition, the GRANTOR shall give the GRANTEE written notice of the need for repair/maintenance. The GRANTEE shall make all repairs/maintenance within a reasonable time. If GRANTEE does not repair/maintain the right-of-way within a reasonable time GRANTOR may make the repair/maintenance and invoice the GRANTEE, its successors and assigns for the cost of repair/maintenance. The GRANTEE shall pay the GRANTOR for those repairs/maintenance within 30 days of said invoice.

GRANTOR does hereby covenant with the GRANTEE, that it is lawfully seized and possessed of the real estate above described and that it has the plenary good and lawful right to grant said license or permit to the use of its right-of-way.

IN WITNESS WHEREOF, the GRANTOR has hereunto set his hand and seal, the day and year first above written.

Signed, sealed and delivered
in the presence of witnesses:

CITY OF DAYTONA BEACH SHORES

____
Cheri Schwab, City Clerk

____
Nancy J. Miller, Mayor
Date: ______________________

____
Michael T. Booker, City Manager

Approved as to form and legality:

____
John M. Cary, City Attorney

ADDITIONAL SIGNATURE PAGE FOLLOWS:

Terms and Conditions accepted and attested to:

SHORES 109, LLC

_____________________________ by_______________________________________

Witness signature BRENDAN GALBREATH,
Its Managing Member

____

Printed name

SHORES 109, LLC

_____________________________ by_______________________________________

Witness signature SHANNON GALBREATH,
Managing Member

____

Printed name

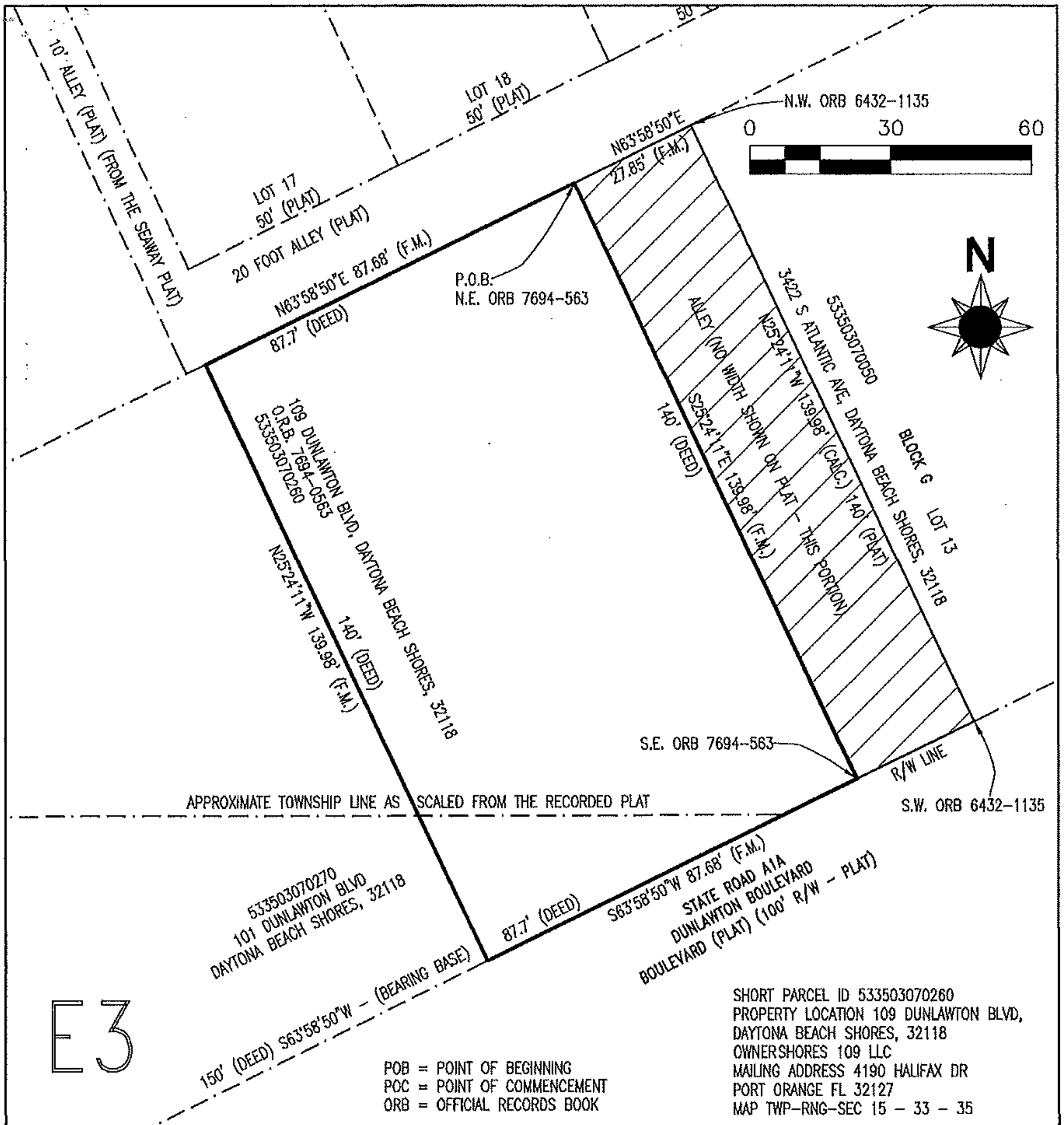
STATE OF FLORIDA
COUNTY OF VOLUSIA

Sworn to (or affirmed) and subscribed before me by means of ___ physical presence or ____online notarization, this ____ day of __________, 2021, by Brendan Galbreath and Shannon Galbreath, who are ____personally known to me or ____who has produced (type of identification) as identification.

____

Notary
(Name typed, printed or stamped)
(Title or rank)
(Serial number, if any)

[Notary Seal]



SHORT PARCEL ID 533503070260
PROPERTY LOCATION 109 DUNLAWTON BLVD,
DAYTONA BEACH SHORES, 32118
OWNERSHORES 109 LLC
MAILING ADDRESS 4190 HALIFAX DR
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POB = POINT OF BEGINNING
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SIGNATURE & CERTIFICATION
ON SHEET 2 OF 2

NOTES:
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10-26-2020

SKETCH AND LEGAL DESCRIPTION

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5889 S. WILLIAMSON BLVD. 205
PORT ORANGE, FL. 32128
386-761-7666
CULLUMLANDSURVEYING.COM

SCALE: 1"=30'	DATE: 10/26/2020	EASE 3 // 1 OF 2
DRAWN: GSC	CHECKED: GSC	JOB: 2019-100

THAT PORTION OF LAND, BEING ON THE PLAT OF " MAP OF VAN VALZAH SUBDIVISION, PORT ORANGE BEACH, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 130";

LYING EASTERLY OF:

OFFICIAL RECORDS BOOK 7694, PAGE 563, WHICH IS DESCRIBED AS

" THE SOUTH 140 FEET OF THE EAST 87.7 FEET OF THE WEST 237.7 FEET OF BLOCK G, EAST OF PENINSULA DRIVE AND INCLUDING LAND ADJOINING SOUTH OF TOWNSHIP LINE, MAP OF VAN VALZAH SUBDIVISION, PORT ORANGE BEACH, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 130, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA ",

AND LYING WESTERLY OF:

OFFICIAL RECORDS BOOK 6432, PAGE 1135, WHICH IS DESCRIBED AS:

" THE NORTH 25 FEET OF LOTS 4, 5 AND 6, EXCEPT THE EAST 20 FEET IN ST., BLOCK "G", PORT ORANGE BEACH, AS PER MAP OR PLAT THEREOF AS RECORDED IN MAP BOOK 4, PAGE 130, AND AS PER MAP RECORDED IN MAP BOOK 15, PAGE 64, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA ",

BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SAID OFFICIAL RECORDS BOOK 7694, PAGE 563;

THENCE EASTERLY TO THE NORTHWEST CORNER OF SAID OFFICIAL RECORDS BOOK 6432, PAGE 1135;

THENCE SOUTHERLY ALONG THE WEST LINE OF SAID OFFICIAL RECORDS BOOK 6432, PAGE 1135, TO THE SOUTHWEST CORNER OF SAID OFFICIAL RECORDS BOOK 6432, PAGE 1135;

THENCE WESTERLY TO THE SOUTHEAST CORNER OF SAID OFFICIAL RECORDS BOOK 7694, PAGE 563;

THENCE NORTHERLY ALONG THE EAST LINE OF SAID OFFICIAL RECORDS BOOK 7694, PAGE 563 TO THE POINT OF BEGINNING.

SHORT PARCEL ID 533503070260
PROPERTY LOCATION 109 DUNLAWTON BLVD,
DAYTONA BEACH SHORES, 32118
OWNERSHORES 109 LLC
MAILING ADDRESS 4190 HALIFAX DR
PORT ORANGE FL 32127
MAP TWP-RNG-SEC 15 - 33 - 35

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10-26-2020

GREGG S. CULLUM P.S.M. #5080 DATE:

E3

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SCALE: 1"=30'	DATE: 10/26/2020	EASE 3 // 2 OF 2
DRAWN: GSC	CHECKED: GSC	JOB: 2019-100

Article II, Section 8, *Constitution of the State of Florida*: ***"Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse."***

"Life is better here."

City Council Agenda Memorandum
May 11, 2021 Agenda

To:	Honorable Mayor and Members of the City Council
Copies To:	Mike Booker, City Manager
	Cheri Schwab, City Clerk
From:	John Cary, City Attorney
Date	May 5, 2021
Subject:	***City Attorney Report***

The following is intended as my written report to the City Council for matters arising subsequent to its last meeting of April 13, 2021. Please advise if you have any questions, comments or concerns relative to these matters.

(1) Halifax Health

Negotiated an estoppel letter with Halifax Health's lender.

(2) FPL

Reviewed and negotiated an Agreement for electric vehicle charging equipment.

(3) Sewer Assessment Opinion

Performed legal research and revised a legal opinion for the Finance Director regarding a sewer assessment.

(4) Signage at 109 Dunlawton Ave.

Provided legal advice regarding requested signage for 109 Dunlawton Ave.

(5) Micromobility Devices

Spoke with City of Daytona Beach City Attorney regarding their micromobility device ordinance. Performed additional legal research.

(6) LDR Ordinances

Reviewed and revised two ordinances for land development regulations.

Respectfully, submitted,

/s/ John Cary, City Attorney

CITY COUNCIL AGENDA MEMORANDUM
MAY 11, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stewart Cruz, City Planner
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Special Exception Extension Request by WD Plaza, LLC - 2900 S. Atlantic Ave: Request is for a one year extension of an existing Concession Parking Ancillary Facility

SYNOPSIS:

The request, by WD Plaza, LLC (owner/applicant), is for a one-year extension of Special Exception SPEX12017006, originally approved in 2017. If approved, the special exception extension would permit Chuckles, LLC (tenant) to continue to utilize a commercial space on the northwest corner of the Winn Dixie Plaza as a concession parking ancillary facility. Pursuant to Sec. 14-58.1.2.D.4.I of the Land Development Code, the City Council may approve up to five (5) extensions for a period of one (1) year each. This is the fourth extension being requested.

Concession parking ancillary facilities are used to provide support to bona fide concession vehicles where concession parking is permitted. The facility may contain subordinate uses including, but not limited to, office, non-hazardous dry storage and minor concession vehicle maintenance and repair. Food preparation and cooking are prohibited. The Winn Dixie Plaza has a "grandfathered" beach concession parking facility on the property therefore the concession parking ancillary facility is permitted on site consistent with Sec. 14-58.1.2.D.4 of the Land Development Code.

FISCAL IMPACT STATEMENT:

BACKGROUND:

Pursuant to Sec. 14-58.1.2.D.4 of the Land Development Code (LDC), concession parking ancillary facility special exception extensions may be granted for a maximum of up to one (1) year and the request shall be in writing to the City Manager at least ninety (90) days prior to termination of the original development order or renewal date. If granted, the subject special exception would be the fourth of five extensions permitted by the LDC.

All inspection and LDC extension standards and requirements are satisfied.

LEGAL REVIEW:

Reviewed. I will review and approve the extension at the appropriate time, if the Council approves this item.

RECOMMENDATION:

Staff recommends approval of the special exception extension request as presented.

SUGGESTED MOTION:

Approval of the special exception extension request by WD Plaza, LLC.

ATTACHMENT:

1. WDP - Chuckles Special Exceptions Extension Request 4_30_21
2. WDP - Special Exception for Chuckles - Recorded

M&P
SHOPPING CENTERS
5025 WINTERS CHAPEL ROAD, SUITE M, ATLANTA, GEORGIA 30360
(770) 698-0403 FAX (770) 698-0406 www.mpshoppingcenters.com

April 30, 2021

VIA EMAIL

Michael T. Booker
City Manger
City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118

Subject: **Special Exception (SPEX 12017006) WD Plaza, LLC, Chuckles LLC Concession Parking and Ancillary Facility Project – Located at 2200 South Atlantic Avenue**

Mr. Booker,

Pursuant to the terms of the above refenced Special Exception, please accept this letter as a request by the Owner (WD Plaza, LLC) to extend the terms of the Special Exception for an additional year (through August 7, 2022).

This will be the fourth of the five extension requests outlined in the Ordinance (2017-01).

We appreciate your assistance with this request.

As always, please feel free to contact me with any questions.

Thank you,

Simon Engler

Vice President
WD Plaza, LLC

M & P MANAGEMENT, LLC • IDLEWOOD PROPERTIES, INC. • M & P HOLDINGS, LLC
MAXWELL POINTE, LLC • AAA REALTY COMPANY
M & P CALHOUN, LLC • M & P SCOTTSBORO, LLC

8/31/2017 1:55:09 PM
Instrument# 2017173197 4 pages
Book: 7443 Page: 4414
Electronically Recorded By
Volusia County Clerk of the Court

Prepared by:
Mr. Stewart Cruz
City Planner
City of Daytona Beach Shores
2990 South Atlantic Avenue
Daytona Beach Shores, Florida 32118
Telephone 386-763-5353

Return To:
Ms. Cheri Schwab
City Clerk
City of Daytona Beach Shores
2990 South Atlantic Avenue
Daytona Beach Shores, Florida 32118

Tax Parcel Identification Number: 15-15-33-02-03-0013 (Long) 5315-02-03-0013 (Short).

CITY OF DAYTONA BEACH SHORES DEVELOPMENT ORDER FOR SPECIAL EXCEPTION (SPEX 12017006, WD PLAZA LLC, CHUCKLES LLC CONCESSION PARKING ANCILLARY FACILITY PROJECT) RELATING TO A 2,100 SQUARE FOOT STRUCTURE AT THE NORTHWEST CORNER OF 2200 SOUTH ATLANTIC AVENUE

On August 8, 2017 an application was heard by the City Council of the City of Daytona Beach Shores for approval of a Special Exception (SPEX 12017006, WD Plaza LLC, Chuckles LLC Concession Parking Ancillary Facility Project) with regard to and relating to and touching and concerning the following described property: 2,100 square foot structure located at 2200 S. Atlantic Avenue within the City Limits of the City of Daytona Beach Shores which real property is assigned Tax Parcel Identification Number 15-15-33-02-03-0013 by the Volusia County Property Appraiser (Short Parcel Number: 5315 02-03-0013).

FINDINGS OF FACT

Property Owner: WD Plaza, LLC.

Applicant: Chuckles LLC.

Project To Which Application Relates: Special Exception (SPEX 12017006, WD Plaza LLC, Chuckles LLC Concession Parking Ancillary Facility Project).

Facts: The Applicant proposes a Concession Parking Ancillary Facility within the City

Limits of the City of Daytona Beach Shores.

CONCLUSIONS OF LAW

(1). The Application sought for approval is consistent with the *City of Daytona Beach Shores Comprehensive Plan* and the development of the property, as proposed, shall be consistent with and in compliance to all applicable land development regulations and all other applicable regulations and ordinances as set forth in the *Code of Ordinances of the City of Daytona Beach Shores*.

(2). The owner of the subject property has agreed to certain lawful conditions as set forth in the original Development Order which conditions touch and concern the subject properties and shall constitute a burden which shall run with the subject properties. Moreover, all of the conditions that relate to the Application have been agreed upon by the property owner and shall be conditions of approval.

ORDER AND CONDITIONS

NOW, THEREFORE, IT IS ORDERED THAT:

(1). The aforementioned Application is **APPROVED** subject to the conditions set forth herein.

(2). This Development Order touches and concerns the aforedescribed property.

(3). The conditions that are the subject of this Development Order are as follows:

(a). The Concession Parking Ancillary Facility shall comply with all applicable provisions of the Daytona Beach Shores *Land Development Code* and Daytona Beach Shores Ordinance Number 2017-01.

(b). The Concession Parking Ancillary Facility shall be associated with, and used only in association with, the property and concession parking located at 2200 South Atlantic Avenue, located in the City and the Property Owner shall enforce this provision to the satisfaction of the City.

Done and Ordered on this 23 day of August, 2017 *nunc pro tunc* to August 8, 2017.

ATTEST:

Cheri Schwab, City Clerk

CITY OF DAYTONA BEACH SHORES

Harry Jennings, Mayor

SIGNATURE PAGE FOLLOWS

JOINDER AND APPROVAL OF CONDITIONS BY PROPERTY OWNER

IN WITNESS WHEREOF, the subject Property Owners has signed and sealed these presents, through its authorized officer and representative, Eliot Arnovitz, the day and year written below and **AGREES** to all of the terms and conditions of this Development Order and represents to the City of Daytona Beach Shores that the signatory below has authority to bind the Property Owner to the terms and conditions hereof.

ATTEST:

Witness # 1
Printed Name: Katie Bradbury

Witness # 2
Printed Name: Jeremy Rosenthal

WD PLAZA, LLC

Authorized Member M&P Holdings, LLC, a Georgia limited liability company by Eliot Arnovitz.

ACKNOWLEDGMENT

STATE OF GEORGIA)

COUNTY OF FULTON)

THE FOREGOING was sworn to and subscribed before me 23 day of August, 2017, by Eliot Arnovitz, who is personally known to me or who produced N/A as identification. **WITNESS** my hand and official seal in the County and State aforesaid this 23 day of August, 2017.

Notary Public
My Commission Expires: 5/13/19

SIMON L ENGLER
MY COMMISSION EXPIRES
NOTARY
PUBLIC
MAY 13, 2019
FULTON COUNTY, GEORGIA

CITY COUNCIL AGENDA MEMORANDUM
MAY 11, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: David Lockwood
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Consideration of Telecommunications Contracts for Internet, Phone, and Analog Dialer services

SYNOPSIS:

The Information Technology Department is seeking council review and selection of a Telecommunications (Phone, Internet, Analog Phone Dialers) Contract for all City Facilities. The current six year contract with Spectrum ends on March 19th, 2021 and a new contract needs to be established. AT&T and Spectrum have provided 36 month contract proposals with options to lease or purchase phone hardware. In addition, each contract includes changes to existing Internet Services to increase the Internet Connectivity Speeds from 50 Mbps to 500Mbps, allowing the City to meet the increased demands for Cloud services.

FISCAL IMPACT STATEMENT:

The proposals provided by both AT&T and Spectrum contain differing levels of Financial Impact for the City. While AT&T's proposals are reflect the lowest billed cost, their contract does not include network connection hardware (Network Switches) or a dedicated direct connection to AT&T's hosted voice infrastructure. This would require the City to share phone bandwidth and equipment with Data. The Spectrum proposals include both company owned and managed network connection hardware, as well as a dedicated connection to the Spectrum hosted voice infrastructure. The move to AT&T would also require a temporary shutdown of the voice and data networks to migrate services. Due to these infrastructure differences, pricing, and existing phone hardware life, Staff recommends the approval of the Spectrum's Leasing proposal at $174,243 over 36 months

BACKGROUND:

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Staff recommends the Spectrum proposal

SUGGESTED MOTION:

Approve the Spectrum contract and Waive the RFP requirement for this purchase.

ATTACHMENT:

1. AT&T Fiber SLA
2. AT&T HV SLA
3. AT&T Proposal
4. Spectrum Fiber FIA SLA
5. Spectrum Hosted Voice SLA
6. Spectrum Proposal

Table of Contents

This document reflects the Service Guide in effect as of February 27, 2018

AT&T Dedicated Internet (ADI) (formerly known as AT&T Managed Internet Service (MIS))

Section Effective Date: 28-Feb-2017

AT&T Dedicated Internet (ADI) provides managed connectivity to the Internet through access facilities. ADI provided outside of the United States is commonly referred to as AT&T Dedicated Internet Global (ADIG) (formerly known as Global Managed Internet Service (GMIS)).

The ADI Service Guide consists of the following Parts:

- Service Description
- Service Level Agreements
- Pricing
- Country-Specific Provisions

In addition, specified portions of the General Provisions apply.

Cross References

Service Description

Service Level Agreements

Pricing

Country-Specific Provisions

Service Description

SD-1. General

SD-1.1. Geographic Availability

Section Effective Date: 28-Feb-2017

ADI Service Components/Capabilities and Optional Features are available as indicated in the ADI Geographic Availability Matrix:

ADI Geographic Availability Matrix				
Service Component / Capability or Optional Feature	**US Mainland**	**AK/HI/PR/USVI**	**Outside US**	**Notes**
Ports	Yes	Yes	Yes	<FRAC>
AT&T Local Channels	Yes	HI and PR Only	Yes	<ALC>
Local Access Combo	Yes	HI and PR Only	No	
Ethernet Access to ADI	Yes	AK and PR Only	Yes	<EA>
Ethernet Access to PNT	Yes	No	No	

ADI Geographic Availability Matrix				
Service Component / Capability or Optional Feature	**US Mainland**	**AK/HI/PR/USVI**	**Outside US**	**Notes**
Packet Filtering	Yes	Yes	No	<PF>
DNS Administration / Additional DNS	Yes	Yes	Yes	<DNS>
Dual Stack IP Version Option (IPv4/IPv6)	Yes	Yes	Yes	<DS>
IPv6 Version Option	Yes	Yes	Yes	<IPv6>
Network Usage Reports	Ye	Yes	Yes	<COS>
Managed Router Option 2	Yes	HI and PR Only	No	<MR2>
ADI with Network Co-Location Service	Yes	Yes	No	
ADI in Carrier Hotel	Yes	Yes	No	<NTS>
ADI with MPLS PNT (non-Ethernet)	Yes	Yes	No	<PNT>
MPLS PNT Unilink Feature	Yes	Yes	No	<UNI>
ADI Express	Yes	No	No	<MXP> <US21>
ADI on Demand	Yes	No	No	<MXP> <US21>
Alternate Routing and Redundancy Options	Yes	Yes	No	
ADI with Business Voice over IP (BVoIP) Services	Yes	AK Only	No	
AT&T Security Services	Yes	Yes	No	
Diagnostic Modem Telephone Line	No	No	No	<DMTL>
Single End Invoice	No	No	Yes	<SEI>
International Leased Line Extension or DSE Direct Satellite Extension	No	No	Yes	<ILLE / DSE>
Zero Mile Access	No	No	Yes	

Notes

<ALC>	AT&T Local Channels are considered ADI Service Components for ADI Sites located in the US only if provided under the ADI Local Access Combinations option.
<COS>	The Class of Service Feature is available outside the US on a case-by-case basis with prior approval and with Private Line/direct connection only (No Frame or ATM).

ADI Geographic Availability Matrix				
Service Component / Capability or Optional Feature	**US Mainland**	**AK/HI/PR/USVI**	**Outside US**	**Notes**
<DMTL>	For AT&T Managed Router sites outside the U.S. ordered after June 30, 2016, customers are required to provide a dedicated analog dial telephone connection (POTS line) and cabling to the modem for the purposes of remote problem determination. Failure to provide the dial connection will void the On-Time Provisioning and Site Availability Service Level Agreements and may lead to additional charges.			
<DNS>	The DNS Provisioning Tool is not available for ADI Sites located outside the US.			
<DS>	In the United States, Dual Stack (IPv4/IPv6) is available for: PPP speeds from T-1 up to OC-12; and switched Ethernet Access up to and including 1 GigE. Dual Stack (IPv4/IPv6) is available on dedicated Ethernet access at 10 GigE, Nx10GigE, 40GigE and 100GigE on customer-managed routers. Outside the United States, Dual Stack (IPv4/IPv6) capability is available for certain PPP access and Ethernet access, as per country availability.			
<EA>	Ethernet Access is available for ADI Sites in the US Mainland, Alaska and Puerto Rico, as well as in Australia, Austria, Belgium, Brazil, Canada, Denmark, France, Germany, Hong Kong, India, Ireland, Italy, Japan, Luxembourg, Netherlands, Portugal, Puerto Rico, Singapore, South Korea, Spain, Sweden, Switzerland, Taiwan, and the United Kingdom only on a case-by-case basis and with prior approval from AT&T. Managed Router Option 2 is not available with Ethernet Access.			
<FRAC>	Effective June 30, 2015, Fractional T1 service (56Kb to 1024 Kb) in the United States, PR and USVI has been discontinued. Effective September 30, 2015, Fractional T1/E1 (56Kb to 1024 Kb) outside the United States has been discontinued.			

<table>
<tr><th colspan="6">ADI Geographic Availability Matrix</th></tr>
<tr><th colspan="2">Service Component / Capability or Optional Feature</th><th>US Mainland</th><th>AK/HI/PR/USVI</th><th>Outside US</th><th>Notes</th></tr>
<tr><td><ILLE / DSE></td><td colspan="5">International Leased Line Extended ("ILLE") access service will provide Customer with a dedicated facility between the customer’s site and the AT&T network Point of Presence (POP), including cross-border link(s).
Direct Satellite Extension ("DSE") uses a Satellite access circuit to provide connectivity for the cross-country transmission of data. There are two types of satellite solutions (1) Digital bearer – no satellite dish at the Customer site, satellite link will be terminated in the remote country teleport, Customer connect to the teleport by domestic leased circuit, or (2) Very Small Aperture Terminal ("VSAT") – satellite dish installed at Customer site to terminate the satellite link directly. The satellite solution that will be selected is dependent on the Customer location. Satellite uses dedicated space segment per Customer site, there is no sharing of bandwidth among customers over the frequency band.
ILLE or DSE is available in the counties listed below on an individual case basis only and with prior approval from AT&T. ILLE or DSE extends AT&T's access into countries where AT&T does not have a direct presence. AT&T will not provide any equipment to the Customer which is required to receive the service or any management thereof. Customer must obtain and maintain its own router according to AT&T specifications.
ILLE: Albania, Algeria, Bolivia, Cambodia, Fiji, Macau, Macedonia, Moldova, Mongolia, Paraguay, Papua New Guinea, Serbia, Sri Lanka, Tunisia, and Uruguay
DSE: Afghanistan, American Samoa, Bangladesh, Brunei, Burkina-Faso, Chad, Democratic Republic of Congo, Egypt, French Polynesia, Gabon, Guam, Guinea, Iraq, Ivory Coast (Cote d’Ivoire) Jordan, Kenya, Kiribati, Lebanon, Madagascar, Malawi, Mali, Nepal, Nigeria, Northern Mariana Islands (Saipan), Republic of Congo, Samoa, Solomon Islands, Tonga, Uganda, Vanuatu, and Zimbabwe.</td></tr>
<tr><td><IPv6></td><td colspan="5">In the United States, IPv6 is available for: PPP speeds from T-1 up to OC-12; and switched Ethernet Access up to and including 1 GigE. IPv6 is available on dedicated Ethernet access at 10 GigE, Nx10GigE, 40GigE and 100GigE on customer-managed routers.
Outside the United States, IPv6 capability is available for certain PPP access and Ethernet access, as per country availability.</td></tr>
<tr><td><MR2></td><td colspan="5">Effective March 12, 2011, Managed Router Option 2 is grandfathered. Grandfathered service will continue to be supported, but AT&T will not accept new orders for Managed Router Option 2 after March 12, 2011.
Managed Router Option 2 is available for speeds of T-1, Fractional T-1, (Fractional T-1 speeds only available for customers that have contracted for such service prior to 7/1/09) T-3, Fractional T-3, and OC-3 only. Managed Router Option 2 is available only with the following Features: Class of Service and ADI Access Redundancy. Managed Router Option 2 is available only with the following billing options: Flat Rate Billing, Burstable Billing, Hi Cap Flex Billing.</td></tr>
<tr><td><MXP></td><td colspan="5">ADI Express is a stream-lined offer of select ADI port speeds.</td></tr>
</table>

ADI Geographic Availability Matrix				
Service Component / Capability or Optional Feature	**US Mainland**	**AK/HI/PR/USVI**	**Outside US**	**Notes**
<NTS>	The following port speeds are available at NTS locations: Gigabit Ethernet (Single Mode Fiber only), OC-3 (Single Mode Fiber only), OC-12 (Single Mode Fiber only), OC-48 (ICB and Single Mode Fiber only), 40GigE and 100GigE.			
<NUR>	Network Usage Reports are not available for ADI Sites located in the Philippines.			
<PF>	Packet Filtering is available with ADI with Managed Router only.			
<PNT>	MPLS PNT is not available in Non-traditional space.			
<SEI>	SEI is provided ICB and subject to individual confirmation.			
<UNI>	The MPLS PNT Unilink Feature is available only on a case-by-case basis with prior approval. MPLS PNT Unilink is available only with the following billing options: Flat Rate Billing and Hi Cap Flex Billing.			
<US21>	Limited to only areas in the following states where an AT&T affiliate is the ILEC: Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, Texas, Tennessee and Wisconsin.			

SD-1.2. Withdrawal of Service or Service Component

Section Effective Date: 16-Nov-2012

AT&T may discontinue providing Service upon 12 months' notice, or a Service Component upon 120 days' notice, but only where AT&T generally discontinues providing the Service or Service Component to similarly–situated customers.

SD-1.3. ADI Access Arrangements

Section Effective Date: 28-Feb-2017

To use ADI, Customer must obtain access between each Customer Site and an AT&T POP, using one of the following supported ADI Access Arrangements:

Dedicated Access

Dedicated Access, including Ethernet Access, consists of a dedicated access facility between the Customer Site and a designated AT&T POP.

Ethernet Access

Switched Ethernet Access connects a Customer Site to a designated AT&T POP or an AT&T integrated cloud if ADI on Demand is utilized via Ethernet protocol.

Frame Relay Access

For sites inside the US, PR and USVI, effective March 31, 2014, ADI with Frame Relay access has been discontinued.

For sites outside the US, effective November 30, 2015, ADI with Frame Relay access has been grandfathered: orders for new service will not be accepted, existing sites will continue to be supported.

Frame Relay Access consists of a Frame Relay PVC between an AT&T Frame Relay Port and an ADI Port. (An inherent security risk exists with this arrangement since AT&T ADI and Frame Relay traffic from a single Frame Port can only terminate on a single customer router.) AT&T will provide, at no additional charge, the Frame Relay PVC (and, if the Customer Site is not associated with an existing Frame Relay Port, the Frame Relay Port) used for Frame Relay Access. For ADI Sites located in the US, Customer must provide the dedicated access facility from the Customer Site to the Frame Relay Port. Frame Relay Access is not available with ADI for Sites located outside the US. Dual Stack and IPv6 IP Version Options are not available with Frame Relay Access.

ATM Access

For sites inside the US, PR and USVI, effective March 31, 2014, ADI with ATM access has been discontinued.

For sites outside the US, effective November 30, 2015, ADI with ATM access has been grandfathered: orders for new service will not be accepted, existing sites will continue to be supported.

ATM Access consists of an ATM PVC between an AT&T ATM Port and an ADI Port. AT&T will provide, at no additional charge, the ATM PVC (and, if the Customer Site is not associated with an existing ATM Port, the ATM Port) used for ATM Access. For ADI Sites located in the US, Customer must provide the dedicated access facility from the Customer Site to the ATM Port. ATM Access is not available with ADI for Sites located outside the US. Dual Stack and IPv6 IP Version Options are not available with ATM Access.

Zero Mile Access

Zero Mile Access (ZMA) allows a Customer to connect Customer premises equipment located at an AT&T or third party data center to an ADI Port if an AT&T POP is located at the same AT&T or third party data center. The demarcation for ADI is the patch panel associated with the AT&T ADI Port at the AT&T POP. Customer is solely responsible for arranging (including contracting and payment for) all space, wiring, equipment, provisioning, and maintenance required to connect Customer premises equipment to the AT&T patch panel. In the event the AT&T POP, where the Customer premises equipment is connected, is closed, it is the Customer's responsibility to arrange to either re-locate its Customer premises equipment to a location where an AT&T POP exists, or obtain access from its Customer premises equipment to another AT&T POP.

SD-1.4. US Domestic Offshore Inter-Office Channel (IOC) for Customer USVI Sites

Section Effective Date: 28-Feb-2017

For any ADI Site(s) located in USVI with a T3 port speed, Customer will be responsible for establishing a connection between the AT&T POP in USVI and an AT&T POP in Puerto Rico. Such a connection will be established via a US Domestic Off-Shore IOC, as more fully described in the Service Guide for the AT&T Bandwidth Services. See Section SD-1.2.1.3. US Domestic Off-Shore IOCs to Hawaii, Puerto Rico, the US Virgin Islands and Guam and associated Cross References.

SD-1.5. Installation Methods

Section Effective Date: 28-Feb-2017

There are two methods of installation of any ADI router: Customer Install and AT&T Install (limited to AT&T-Provided routers). The installation method for an ADI router at a particular Site will be selected by the Customer as part of its placement of an ADI order.

- Customer Install (also referred to as "Tele-Installation"): Customer is responsible for setting up its ADI router, whether Customer-provided or AT&T-Provided, without the assistance of an AT&T Field Technician at the customer site. Customer can contact an AT&T Engineer when Customer is ready to Test & Turn-up the router and ADI service. The AT&T Engineer can be contacted through the AT&T Order Status Manager link that will be provided via the Order Confirmation and Order Completion letters.
- AT&T Install (also referred to as "On-Site Installation"): An AT&T Field Technician will set up the AT&T-Provided ADI router at the Customer Site identified on the applicable ADI order. The AT&T Field Technician will complete the Test & Turn-up of the ADI router and the ADI service on the Service Activation Date.

SD-2. ADI Ordering

SD-2.1. Customer Orders

Section Effective Date: 28-Feb-2017

For ADI Sites located in the US, AT&T and Customer may conduct a technical interview to develop the details of Customer's order and determine the technical requirements for implementing Customer's ADI. For ADI Sites located outside the US, AT&T personnel will review the order and contact Customer for any necessary information or clarification regarding Customer's order. Customer must provide a valid Domain Name to AT&T for use with ADI. Customer may use an existing Domain Name already registered with another ISP or, if AT&T is to provide DNS Administration, a Domain Name that Customer plans to register with the ICANN Accredited Registrar database in its company name and identifying AT&T DNS servers for purposes of DNS resolution. For ADI Sites located in the US, AT&T will provide a Customer Confirmation Document ("CCD") by email to Customer confirming the details of Customer's ADI order. For ADI Sites located outside the US, the details are contained in Customer's order. AT&T will begin provisioning ADI for Sites located in the US after the CCD is issued to Customer. AT&T will begin provisioning ADI for Sites located outside the US after AT&T receives Customer's order containing all required information.

If Customer is eligible and selects ADI on Demand AT&T will begin service activation for sites located in the US on the Customer selected date noted on the CCD provided by email. Billing will begin at time of service activation.

SD-2.1.1. ADI and PNT Implementation Planner

Section Effective Date: 30-Jun-2017

To help a Customer plan for the implementation of ADI, applicable implementation and Customer site preparation documents can be found at the ADI and PNT Implementation Planner website at http://carecentral.att.com/MISExpress.Implementation.

SD-2.2. Disconnect Orders

Section Effective Date: 28-Feb-2017

To disconnect an ADI Service Component, Customer must submit a disconnect order in writing using AT&T's online form, where available, or AT&T's designated alternative procedures. Recurring charges continue to apply for a period of 30 days from the date AT&T receives a disconnect order or until the disconnect date, as specified in the disconnect order, whichever is later. The disconnect date is known as the Customer Requested Due Date (CRDD).

The Customer may delay the CRDD just once. The new CRDD can be no more than 14 calendar days later than the original CRDD. The Customer may initiate a delay by submitting a written request using AT&T's online form, where available, or AT&T's designated alternative procedures.

Customer may cancel a disconnect order, at any time prior to the disconnect date (CRDD), by submitting a written request using AT&T's online form, where available, or AT&T's designated alternative procedures.

Customers with ADI on Demand may disconnect on the AT&T Business Center portal. Early Termination Fees will apply as set forth in the Pricing Schedule.

SD-2.3. Expedite of a Due Date

Section Effective Date: 28-Feb-2017

Customer's request to advance the Due Date of an order at a non-US ADI Site will be accepted by AT&T when the request can be accommodated without delaying orders of other Customers. A Charge is applicable to each expedited access circuit.

SD-2.4. Orders Not Subject to Early Termination Fees

Section Effective Date: 22-Jul-2017

For the ADI and MPLS PNT Service Types listed below, the disconnection of an ADI or MPLS PNT Service Component shall not be considered termination of Service or Service Components by Customer if any of the stated order types apply:

- The order is an outside move at the same or upgraded ADI or MPLS PNT speed, for which the Monthly Recurring Charge (MRC) and Minimum Payment Period (MPP) shall not be less than those for the disconnected facility.
- The order is a change order or disconnect order with a related new order for ADI or MPLS PNT Service at the same speed with additional options or an upgraded speed with or without additional options, and the monthly recurring charge and Minimum Payment Period for the new ADI or MPLS PNT Service is not less than those for the disconnected facility.

- The order is an upgrade to new ADI or MPLS PNT Ethernet access Service and the Minimum Payment Period is not less than the remaining term for the disconnected facility.

For the above orders, applicable ADI and MPLS PNT Order Types are:

- N x T1, MLPPP
- MARO (ADI Access Redundancy Option)
- AT&T Dedicated Internet with Ethernet Access
- MPLS Private Network Transport Service with Ethernet Access
- Basic to Plus, e.g. upgrade from ADI Basic (Customer Managed/Provided CPE) to ADI Plus (AT&T Managed/Provided CPE); upgrade from PNT Basic (Customer Managed/Provided CPE) to PNT Plus (AT&T Managed/Provided CPE).
- The order is an MPLS PNT disconnect order with a related new order for AT&T VPN Service. This early termination charge waiver does not apply to ADI Service Types that do not include the MPLS PNT Feature.

SD-3. ADI Billing

SD-3.1. Service Activation Date Outside the United States

Section Effective Date: 28-Feb-2017

Billing for each ADI Service Component outside the United States will begin on the Service Activation Date of that Service Component, unless Customer's actions or omissions cause a delay of the Service Activation Date beyond its scheduled Service Activation Date, in which case billing shall be effective as of the day after the originally scheduled Service Activation Date for such ADI Service Component. All Customer invoices for ADI Service provided outside the United States shall be in the currency specified in Customer's Pricing Schedule or Pricing Addendum.

SD-3.2. Cancellation of a Service Order Outside of the United States

Section Effective Date: 29-Jul-2011

Customer may cancel an order for installation of Service at the Site prior to the Service Activation Date. Cancellation of Service after the Service Activation Date shall be considered termination of the Service Components at the Site.

SD-3.2.1. Charges for Customer Cancellation of Service Order Prior to Service Activation

Section Effective Date: 29-Jul-2011

Upon cancellation by Customer of an order to install Service at a Site, Customer shall pay:

- Major Change for Router MACD charge of $1,500;
- Any access facilities cancellation charges and any other third-party charges incurred by AT&T arising due to cancelled service orders; and the monthly Recurring Charges for the access line component(s) for the Minimum Payment Period applicable if cancellation occurs after AT&T has placed order for access line or after shipment of CPE to Customer.

SD-3.2.2. Charges for AT&T Cancellation of Service Order Prior to Service Activation Due to Customer Actions or Omissions

Section Effective Date: 28-Feb-2017

AT&T may cancel an order for installation of Service at the Site if Customer's actions or omissions prevent AT&T from completing installation at a Site within sixty (60) calendar days of the Scheduled Service Activation Date, or fifteen (15) calendar days from service activation for ADI on Demand.

Upon cancellation by AT&T of an order to install Service at a Site due to Customer's actions or omissions preventing AT&T from completing installation of an order to install Service at a Site. In that event, Customer shall pay:

- Any access facilities cancellation charges and any other third-party charges incurred by AT&T arising due to cancelled service orders; and the monthly recurring charges for the access line component for the Minimum Payment Period applicable if cancellation occurs after AT&T has placed order for access line or after shipment of CPE to Customer.

SD-3.3. ADI Billing Options

SD-3.3.1. Flat Rate Billing

Section Effective Date: 01-Mar-2005

Customer contracts for a stated bandwidth and pays a fixed monthly fee.

SD-3.3.2. Monthly Sustained Usage

Section Effective Date: 28-Feb-2017

AT&T measures monthly sustained usage for billing purposes as follows:

AT&T polls the ADI Port every five minutes and collects two data points, octets (units of data), in and out.

The data points are tracked over the course of the monthly billing cycle.

AT&T disregards the top 5% of the data points over a month, and bills Customer each month at the 95% level of usage.

SD-3.3.3. Burstable Billing

Section Effective Date: 28-Feb-2017

Burstable Billing is available only with DS-1, DS3, OC3, OC12, OC48 Access Channels and for ADI Sites located outside the US with Port speeds at 2 Mbps. The monthly Port charge is based on monthly sustained usage, subject to a minimum monthly charge based on the rate for the lowest port speed tier available to Customer.

SD-3.3.4. Hi Cap Flex Billing

Section Effective Date: 28-Feb-2017

ADI Hi Cap Flex Billing is available with DS3, OC3, OC12, OC48 and Ethernet (excluding Nx10Gig) Access Channels for ADI Sites located in the US and Port speeds of 34/45 Mbps for ADI Sites located outside the US. Customer selects a minimum monthly bandwidth commitment for a fixed monthly charge, and pays an additional charge based on monthly sustained usage above that minimum commitment.

SD-3.3.5. Shadow Billing (available with ADI Access Redundancy Options only)

Section Effective Date: 15-Dec-2005

Shadow Billing is available for the backup access circuit at Customer Sites with Backbone Node Redundancy or Access Router Redundancy where Local Channel (T-1 and T-3) or ATM (T-3) is the access method. Customer pays a minimum monthly charge for up to 56 Kbps of capacity on backup access circuit and, if the primary access circuit fails, additional charges based on any actual monthly sustained usage of the backup circuit above 56 Kbps.

SD-3.3.6. Single End Invoice

Section Effective Date: 30-Oct-2015

Single End Invoice (SEI) is a billing feature under which AT&T will consolidate all charges payable by Customer for Service in one or more countries into a single invoice and single currency (the "SEI Currency") for payment by Customer. AT&T will invoice Customer or Customer's Affiliate for Services in the SEI Currency in a Customer-designated country approved for SEI by AT&T ("Approved SEI Country"). Customer or Customer's Affiliate must be legally incorporated or established in the designated Approved SEI Country to receive the invoice.

The rates applicable for SEI in a country will be described in the Pricing Schedule. To deliver an SEI invoice, AT&T will:

- generate the SEI invoice in the month following the month in which the SEI charges would normally be invoiced by AT&T; and
- for SEI that are not already priced in the SEI Currency, calculate the SEI Currency value of the SEI charges by converting charges from their stated currency into the SEI Currency by applying an exchange rate. The exchange rate applicable to this conversion will be calculated as the average of the daily closing rates, for each of those currencies published by Bloomberg L.P. – New York Composite – 5:30 pm US Eastern time. The average is calculated using the daily closing rate of the 16th day of the month (or closest immediately following business day), up to and including the daily closing rate of the 15th day of the following month (or closest immediately preceding business day).

Customer shall make payment to AT&T's Affiliate for the Services billed using SEI in the Approved SEI Country designated by the Customer in the SEI Currency shown on the invoice.

SD-3.3.7. SEI Limitations and Exclusions

Section Effective Date: 30-Oct-2015

SEI is available subject to the following limitations:

- SEI is not available for all countries where Service is available. For some countries, SEI is required as a condition for Customer to obtain Service.
- Customer is required to maintain the Approved SEI Country and SEI Currency designated for a minimum of twelve months.

- AT&T reserves the right to modify or eliminate SEI, the SEI Approved Countries or the SEI Currencies, without prior notice. Services already contracted for prior to the date of such change, shall continue to be invoiced under the Customer's existing SEI terms until the expiration of the Pricing Schedule term.
- Depending on the jurisdiction where the Service or SEI is provided, AT&T may incur irrecoverable costs (such as taxes, duties, levies and other similar charges). Upon written notice to Customer, AT&T may increase the charges payable by Customer and may submit supplementary SEI invoices, for affected countries, to recover irrecoverable costs.
- AT&T reserves the right to modify the currency conversion methodology described herein. AT&T will inform Customer if a new currency conversion standard is selected.
- On termination of SEI, AT&T will invoice Customer for the SEI Eligible Services in accordance with the then-current invoicing procedure for each SEI Eligible Service.

SD-3.3.8. SEI Country Limitations

Section Effective Date: 30-Oct-2015

Unless Customer elects to be invoiced in an SEI Country, AT&T's Hong Kong affiliate shall invoice Customer's Legal Entity in Hong Kong in the currency listed in the Schedule of Charges for the countries specified below, and Customer's Legal Entity in Hong Kong shall make payment to AT&T's Hong Kong Affiliate.

- Macau
- Mongolia

SD-4. Service Types

SD-4.1. ADI with Customer-Provided Router

Section Effective Date: 28-Feb-2017

Under ADI with Customer-Provided Router, Customer must (a) provide all CPE necessary to access ADI, (b) configure, install, manage, monitor, and maintain all such equipment, and (c) manage certain elements of its Internet access.

SD-4.2. ADI with Managed Router

Section Effective Date: 01-Jun-2017

Under ADI with Managed Router and ADI with Managed Router Option 2, AT&T provides, configures, monitors, manages and maintains the CPE necessary to use ADI, which generally consists of a router and a diagnostic modem. Customer is required to maintain a dedicated POTS line that will be used only with the diagnostic modem for out-of-band testing. For sites in the United States, ADI with Managed Router is not available with the IPv6 IP Version Option.

AT&T CPE Monitoring, Maintenance, and Management

AT&T has full management and operational control (including passwords) of the AT&T CPE. AT&T coordinates required software updates and configuration changes to AT&T CPE. AT&T technicians will work remotely with Customer to diagnose failures and determine if AT&T CPE should be replaced or repaired.

ADI with Managed Router (Remote/Telephone Support Only)

Standard Support: For ADI Sites located in the US, AT&T provides Advanced Replacement Next Business Day equipment delivery, as needed, for malfunctioning AT&T CPE. This is in addition to remote/telephone support. Customer is responsible for installing the delivered replacement AT&T CPE with telephone assistance from AT&T, if required.

ADI with Managed Router (On-Site Support)

Optional Support, Additional Cost: Alternatively, Customers may, if available at a specific location, choose to purchase a 4 hr maintenance response. The service will include necessary replacement CPE (as determined by AT&T) as well as assistance from the AT&T technician who will arrive on Customer's site to facilitate the CPE replacement. AT&T reserves the right, at any time and at its sole discretion, to substitute AT&T CPE (or any of its parts) with another functionally equivalent piece of hardware.

Implementation support

For ADI Sites located in the US, ADI with Managed Router and ADI with Managed Router Option 2 each includes on-line access to the ADI Implementation Planner, which provides detailed information about the installation and use of ADI. AT&T will help Customer prepare for installation and use of ADI by providing Customer Site configuration information to Customer and by registering Customer's network numbers, domain names and routing information. AT&T will coordinate access line connection or ordering and installation and ADI testing.

Packet Filtering

ADI with Managed Router and ADI with Managed Router Option 2 for ADI Sites located in the US includes implementation and ongoing management of packet filtering tables in the AT&T CPE router based on a customized filtering plan jointly defined by AT&T and Customer. AT&T also makes requested changes to the filtering plan, provided that Customer may only request one change per week and such changes may only be requested and made during normal business hours.

Return of AT&T CPE

Upon notice of termination of Service at a Site or when AT&T notifies Customer that the AT&T CPE is no longer needed for the provision of Service, Customer shall return to AT&T at Customer's expense the AT&T CPE located at a Customer Site within thirty (30) days of notice. Upon return, AT&T CPE must be in the same condition as originally installed, except for ordinary wear and tear. If upon return by Customer AT&T determines that the AT&T CPE is damaged (beyond ordinary wear and tear) or is missing components (including, for example, the out-of-band Modem), or if the Customer does not return the AT&T CPE, then Customer shall pay the applicable Non-Returned/Damaged CPE Charge set forth in the Non-Returned/Damaged CPE Charge Table.

Cross References

P-4. Rate Table ADI-NRDCPE-CHRG – Non-Returned/Damaged CPE Charge

SD-2.1. Customer Orders

SD-4.3. ADI With AT&T Business in a Box® Service

Section Effective Date: 01-Mar-2017

Customers may select the ADI with AT&T Business in a Box® Service as a Service Component instead of ADI with Managed Router options described above. The applicable Service Guide for the AT&T Business in a Box® Service is located in the Service Guide Library.

SD-4.4. ADI on Demand

Section Effective Date: 11-Mar-2017

ADI on Demand is an ordering and provisioning functionality that allows Customers to purchase and manage ADI Express services offered via ADI on Demand functionality at qualifying locations using AT&T Business Center, an on-line, self-service portal. ADI on Demand functionality includes, but is not limited to:

- Setting up new Internet access
- Changing bandwidth
- Maintenance trouble reporting
- Order status updates through AT&T Business Center
- Viewing bills online

ADI on Demand requires the use of AT&T Business Center, a web interface available at no additional charge, to access and perform certain ordering and service management functions. Services may be purchased using ADI on Demand only in those locations for which AT&T has made ADI on Demand available within the US 21 states (AR, CA, IL, IN, KS, MI, MO, NV, OH, OK, TX, WI, GA, FL, SC, NC, LA, MS, TN, AL, KY). ADI on Demand functionality is not available for Sites which include, but are not limited to, dedicated managed routers, unmanaged ADI service, and/or AT&T Business in a Box.

AT&T may, in its discretion, add to or modify the services, order types, features and functionalities supported by ADI on Demand. The AT&T Business Center will reflect the supported services, availability, order types, features and functionalities that may be selected by Customer.

SD-4.4.1. ADI on Demand Supported Features and Functionality

Section Effective Date: 28-Feb-2017

ADI on Demand will support the following order types, features and functionalities of AT&T Dedicated Internet, subject to modification at AT&T's discretion:

- Order Types
  - Add, change, Customer Bandwidth Port and Access
  - Add, change Minimum Bandwidth Commitment (MBC)
  - Ability to change billing model between Usage Based and Flat rate
- Managed Services

- ADI on Demand locations will include a "Managed Virtual Router", a virtualized routing function hosted inside the AT&T Network and not located on the customer premise. Customers are responsible for LAN-based equipment.

- Exclusions
    - AT&T Business in a Box will not be available with ADI on Demand locations
    - Only available for ADI with Managed Router
    - Class of Service will not be available with ADI on Demand

SD-4.4.2. User Experience

SD-4.4.2.1. Billing

Section Effective Date: 28-Feb-2017

Flat Rate Billing

Customer contracts for a stated bandwidth and pays a fixed monthly fee.

Usage Based Billing – HiCap Flex

Customer selects a Minimum Bandwidth Commitment for a fixed monthly charge, and pays an additional charge based on monthly sustained usage above that Minimum Bandwidth Commitment. The Incremental Usage Fee is the charge per Mbps for usage above the Minimum Bandwidth Commitment.

Ethernet Access

The Ethernet Access designates the monthly recurring charge for the access necessary to operate ADI.

Proration and Billing

The following Customer order types may result in partial month or prorated charges on the Customer's bill. New Adds or Change Orders that occur between billing cycles may result in partial month charges based on calendar days in service.

- Add, change, Customer Bandwidth Port and Access
- Add, change Minimum Bandwidth Commitment (MBC)

SD-4.4.2.2. Change Management

Section Effective Date: 24-Nov-2015

- Add Sites, where available
- Minimum Bandwidth Commitments can be increased or decreased
- Bandwidth ports and access can be increased or decreased
- Change billing model between Usage and Flat rate billing

SD-4.4.2.3. Customer Control

Section Effective Date: 24-Nov-2015

Customers will have the ability to change various attributes of the service, including, but not limited to, Routing and Configurations.

SD-4.5. ADI Express

Section Effective Date: 26-May-2017

ADI Express is an ordering and provisioning functionality of select ADI speeds. Customer may purchase the following optional Services under their ADI Express Service Agreement:

- AT&T Cloud Web Security Service, pursuant to the terms and conditions as set forth in the AT&T Cloud Web Security Service Guide, and
- AT&T Wi-Fi Enterprise, pursuant to the terms and conditions as set forth in the AT&T Wi-Fi Services Service Guide.

SD-5. ADI Service Components/Capabilities

Section Effective Date: 28-Feb-2017

ADI Port

An ADI Port provides the connection to the AT&T Network. The Port speed is the maximum rate for transmission of data through the Port.

Domain Name System (DNS) Administration

AT&T will host Customer's IP addresses or domain names for up to 15 primary and/or secondary (the same domain counts as both primary and secondary) DNS zones (15 domain names per circuit or per each NxT1 circuit bundle). If Customer establishes its own primary DNS, AT&T will host secondary DNS only. Customer must pay to the registrar all domain registration fees related to registration and use of domain names. AT&T will not host domains that are not owned by Customer. Once Customer's DNS is established, Customer must self-administer its DNS for all existing zones using AT&T's web-based DNS Provisioning Tool, which permits Customer to view, add, delete or update its DNS records and add new domains. (Customer may not use the DNS Provisioning Tool to obtain IP block assignments.) AT&T also operates "resolving" or "caching" DNS servers that Customer may use for domain name look-ups by Customer's in-house systems (PCs, mail servers, etc.) connected to the Service. This domain name look-up service is only available if AT&T is providing primary DNS or primary and secondary DNS to Customer and if Customer does not have its own DNS server(s), and it may not be used by Customer's spam detection software for querying spam block lists. For a separate charge, AT&T may provide additional DNS Administration in blocks of up to 15 additional primary or secondary DNS zones.

Customers may not make more than 500 DNS queries per second.

AT&T will only provide DNS Administration, including domain name look-ups, directly to Customer and not to downstream providers (including Internet Service Providers, Internet Access Providers, Application Service Providers and resellers) or to any third parties given access to Service by Customer.

Customers running their own DNS Servers or relying on third parties to host their forward domain names must use their or the third party's DNS Servers for this purpose, and those Servers may not be configured to forward DNS queries to AT&T DNS Servers.

Customers running their own DNS Servers or relying on third Parties to run DNS Servers must ensure that the servers are configured to only answer queries from local, known and/or trusted sources ("Permitted Sources"). If AT&T determines that a Customer is operating what is commonly known as an Open DNS Resolver or open DNS Proxy which is one that answers queries from sources other than Permitted Sources, AT&T reserves the right to block at any time the affected traffic without any notice to the Customer. Customer will be required to reconfigure the DNS Servers to only answer queries from Permitted Sources.

Additional DNS

Provides Customers with administration of up to 15 additional DNS zones. Customers may select primary DNS or secondary DNS. An additional monthly charge applies. Multiple orders of Additional DNS, for the corresponding monthly charge, are available.

Network Usage Reports

Customer will have online access to traffic summary reports that track access line utilization as a percentage of the available bandwidth. Daily graphical reports display the inbound and outbound traffic profile in 15-minute increments (except for usage-based circuits, for which 5-minute increments are displayed) and peak and average traffic statistics of the day. Weekly and monthly graphical reports display the inbound and outbound traffic profile, and peak and average traffic statistics, for the selected reporting period.

Network Practices

AT&T engineers its dedicated Internet access services to provide a high-quality Internet experience for its customers and takes the security of its Customers and its network very seriously. AT&T does not favor certain Internet applications by blocking, throttling or modifying particular protocols, protocol ports, or protocol fields in ways not prescribed by the protocol standards. However, in response to a specific security threat against its network or its customers, AT&T may occasionally need to limit the flow of traffic from certain locations or take other appropriate actions. AT&T proactively monitors its network to guard against a wide range of security threats, including viruses, botnets, worms, SPAM, distributed denial of service attacks and other malicious or harmful activity. In the event AT&T detects a security threat, it will typically attempt to isolate that threat and prevent it from spreading across its network or to other networks. AT&T may use a variety of security measures to prevent the spread of a threat, which may include blocking malicious or unlawful traffic, redirecting the flow of traffic over some portions of our network, or taking other actions to address the threats. For example, AT&T blocks certain ports that transfer malicious or disruptive communications (such as Ports 25, 135, 139, 445 or 1900). AT&T attempts to limit those actions to the specific portions of its network or customer base impacted by the security threat and for only as long as necessary to mitigate the threat.

Privacy Policy

AT&T maintains a comprehensive Privacy Policy that applies to all uses of AT&T's products and services, as well as the use of its website. This Privacy Policy identifies and describes the way AT&T uses and protects the information its collects about customers and users. AT&T's Privacy Policy is available at att.com/privacy.

SD-6. ADI Features

SD-6.1. Class of Service

Section Effective Date: 10-Mar-2017

The Class of Service (CoS) feature enables Customer to prioritize traffic among four classes: real-time, high-grade data, medium-grade data, and low-grade data. Each CoS has a specific amount of bandwidth allocation so that all classes can transmit data during congestion. However, if any class does not use its entire bandwidth allocation, packets of other classes can share the unused bandwidth. Customer may select from a number of "profiles" that have predetermined bandwidth allocations for each CoS.

The CoS feature is available in the US for use only at Sites with Local Channel access (Full DS-1 or Full/Fractional DS-3). The CoS feature is required when BVoIP is used with ADI Services. Some restrictions apply with the ADI Access Redundancy Options.

SD-6.2. ADI with Network Co-Location Service (NCS)

Section Effective Date: 28-Feb-2017

ADI with NCS provides Customer with use of a pre-built rack within an AT&T-designated AT&T POP and a direct connection from a router in such rack to the AT&T Network. Customer is required to provide, install, manage, and maintain the router. ADI with NCS includes the ADI Port, use of a pre-installed 23" rack, the choice of either 6 DS-1s or 6 E1s, or 2 DS-3s, or 2 OC-Xs or 2 ETS cables to the AT&T-designated point of interface (including installation), dual 30 AMP power DC power feeds, secured building access, heating, ventilation, and air conditioning, and an interconnection to other AT&T IP or APS Service Components. Customer is responsible for providing cabling within the rack, an inverter (if required) to convert DC power to AC power, an uninterruptible power supply (if required) and a local POTS line (if ordering On Site Assistance, also referred to as Tier 1 Support). Customer must be on-site to receive its equipment at the AT&T POP.

SD-6.3. ADI in Carrier Hotels

Section Effective Date: 28-Feb-2017

Customer may connect to ADI Ports at AT&T access routers in certain co-location centers (Carrier Hotels) that are neither owned nor managed by AT&T. Customer must have a collocated router in the same co-location center. Customer is responsible for ordering the cross-connection in the co-location center from Customer's router to the AT&T access router, and paying all associated fees charged by the co-location center.

SD-6.4. ADI with MPLS Private Network Transport (PNT)

Section Effective Date: 28-Feb-2017

With the MPLS PNT feature, AT&T segregates Customer data traffic transmitted over the AT&T IP Network using MPLS to create a network-based IP Virtual Private Network (VPN). AT&T segregates Customer's PNT traffic from other traffic on the network with separate routing tables in AT&T network/provider edge (PE) routers. Unique VPN ID labels are added to Customer's data packets as they enter the AT&T IP Network and are removed as the data packets reach their destination so that the Customer's router may read the data. PNT does not permit access to the Internet, so Customers must order separate ADI ports if they also want Internet access and DNS Administration at an ADI with PNT Site. The MPLS PNT feature is available for use at Sites with Local Channel access (Full/Fractional DS-1, MLPPP 3 Mbps through 12 Mbps, Full/Fractional DS-3, OC3, OC12, and OC-48) and Ethernet access from 2 Mbps to 1 Gbp. MPLS PNT Ports using Ethernet access may be configured as a single VLAN or up to ten (10) VLANS. ADI with MPLS PNT is not available with the Dual Stack or IPv6 IP Version Option.

SD-6.4.1. MPLS PNT Service Types

SD-6.4.1.1. MPLS PNT IP Transport

Section Effective Date: 01-Mar-2005

With MPLS PNT IP Transport, MPLS label stacking starts at the AT&T's MPLS-enabled Provider Edge (PE) routers, and MPLS and other enabling technologies are used within the AT&T IP Network to join Customer's MPLS PNT Sites into a VPN. Customer traffic sent between the Customer edge (CE) router at the Customer Site and the AT&T PE router over the local access circuit is not segregated using MPLS labels, but AT&T supports static routing or BGP 4 between the CE router and the AT&T PE router.

SD-6.4.1.2. MPLS PNT Label Transport

Section Effective Date: 01-Mar-2005

With MPLS PNT Label Transport, Customer CE routers and AT&T PE routers are configured for IP static routing and Label Distribution Protocol (LDP) to allow the exchange of MPLS labeled traffic between Customer CE router and the AT&T PE router over the local access circuit. MPLS label stacking starts at the Customer's router, so Customer network information associated with Customer's end user customers is not visible to AT&T. MPLS PNT Label Transport also enables Customers to offer MPLS VPN capabilities to their end-user customers.

SD-6.4.1.3. MPLS PNT Unilink

Section Effective Date: 11-Feb-2010

MPLS PNT Unilink allows Customers to maintain up to one hundred twenty (120) logical channels on a single OC-3, OC-12 or OC-48 Local Channel and MPLS PNT Port.

The aggregate bandwidth of all logical channels may not exceed the bandwidth of the Port. Router limitations may limit the bandwidth of the Port. CoS is not available.

SD-6.4.1.4. AT&T Private Network Transport – AT&T VPN Interoperability Feature

Section Effective Date: 11-Aug-2011

AT&T Private Network Transport (PNT) - AT&T VPN (AVPN) Interoperability Feature ("AVPN Interoperability Feature") allows Customer Sites using AT&T VPN MPLS VPN and AT&T Private Network Transport VPN to be interconnected, and permits communication on an any-to-any basis.

The AVPN Interoperability Feature may not be compatible with all AT&T VPN features or capabilities, or with all MPLS PNT features or capabilities.

Service Components interconnected using the AVPN Interoperability Feature only qualify for SLAs that are expressly applicable to the respective Service. Implementation of the AVPN Interoperability Feature does not change the testing or measurement of performance obligations applicable to or reporting available for a Service Component. For example, and without limiting the forgoing, when Customer's AT&T VPN and MPLS PNT VPN are interconnected by the AVPN Interoperability Feature, the PNT Port will not be included in the measurement of the AT&T VPN MPLS Port-to-MPLS Port Latency and AT&T VPN MPLS Port Data Delivery SLAs, and a failure by AT&T to meet the performance objective for these SLAs shall not make Customer's AVPN Ports eligible for service credits under the PNT SLAs. When making a claim for a service credit, Customer must follow the SLA credit request process applicable to the respective Service for which the credit is claimed.

SD-6.5. Alternate Routing and Redundancy Options

SD-6.5.1. Alternate Backbone Node Option

Section Effective Date: 28-Feb-2017

The Alternate Backbone Node Option enables Customer to obtain access to an ADI Port at an AT&T IP Backbone Node other than the nearest AT&T IP Backbone Node.

SD-6.5.2. CPE Redundant Configuration Option

Section Effective Date: 12-May-2012

The CPE Redundant Configuration Option includes a fully configured and tested duplicate set of AT&T-provided CPE located at the Customer Site. The duplicate set of CPE is stored at the Customer Site for installation by Customer (with telephone support by AT&T) in the event of equipment failure. Not available with Ethernet Access.

SD-6.5.3. Backbone Node Redundancy

Section Effective Date: 01-Mar-2005

With Backbone Node Redundancy, AT&T connects a group of access circuits from the Customer Site to Ports through to two different AT&T access routers located at two physically diverse AT&T IP Backbone Nodes. Each circuit must use the same access method.

SD-6.5.4. Access Router Redundancy

Section Effective Date: 01-Mar-2005

With Access Router Redundancy, AT&T connects a group of access circuits from the Customer Site to Ports through two different AT&T access routers within the same AT&T IP Backbone Node. Each circuit must use the same access method.

SD-6.5.5. Automatic Load Balancing (Link Redundancy)

Section Effective Date: 01-Mar-2005

With Automatic Load Balancing, AT&T connects a group of access circuits from the Customer Site to a Port through a single AT&T access router to balance the traffic across the circuits. The bandwidth and access method of each circuit must be the same.

SD-6.6. ADI with Business Voice over IP

Section Effective Date: 28-Feb-2017

Business Voice over IP (BVoIP) Services are available in conjunction with ADI to permit Customers to transmit voice telephone calls in IP format over the AT&T IP Network. To be eligible for ADI with BVoIP, Customer must order ADI Plus (AT&T Managed/Provided CPE) and the CoS feature via the ADI Pricing Schedule.

AT&T BVoIP Services are more fully described in the AT&T BVoIP Service Guide.

SD-6.7. IP Version Option

Section Effective Date: 28-Feb-2017

Three IP Version options are available with ADI; IPv4, Dual Stack IPv4/IPv6 ("Dual Stack IP Version Option"), and IPv6.

SD-6.7.1. Internet Protocol version 4 (IPv4)

Section Effective Date: 28-Feb-2017

Internet Protocol version 4 (IPv4) is the current standard communication protocol in place for Internet communication. IPv4 has been the default IP version supported by ADI.

IPv4 uses 32-bit (four-byte) addresses, usually written in dot-decimal notation, which consists of the four octets of the address expressed in decimal and separated by periods. (Example: 192.168.255.255)

SD-6.7.2. Dual Stack (IPv4 – IPv6)

Section Effective Date: 28-Feb-2017

The Dual Stack option provides access to an ADI port that supports both IPv4 and IPv6. IPv6 is the next generation protocol designed to replace the current IP Version 4. Dual Stack nodes have the capability of sending and receiving both IPv4 and IPv6 packets. They can directly interoperate with IPv4 nodes using IPv4 packets, and also directly interoperate with IPv6 nodes using IPv6 packets.

SD-6.7.3. Internet Protocol version 6 (IPv6)

Section Effective Date: 18-May-2013

IPv6 is the next generation protocol designed to replace the current IP Version 4.

IPv6 uses 128-bit (sixteen-byte) addresses, made up of eight hexadecimal groups. Each hexadecimal group, separated by a colon (:), consists of a 16-bit hexadecimal value. (Example: F704:0000:0000:0000:3458:79A2:D08B:4320)

SD-7. AT&T Security Services

SD-7.1. General

Section Effective Date: 29-Jul-2011

AT&T Security Services are for use in conjunction with AT&T-approved Internet connections to Customer's network. AT&T Security Services do not monitor any other Internet connections that Customer may establish. Multiple Internet connections, unless protected by additional security measures, may decrease overall network security. Customer is responsible for its own security policy and security violation response procedures.

Customer will appoint qualified personnel to act as the Customer Security Liaison with AT&T security personnel with respect to AT&T Security Services.

Dual Stack and IPv6 IP Version Options are not available with the AT&T Security Services specified in this Section 7.

SD-7.2. AT&T Managed Firewall Services (MFS)

SD-7.2.1. AT&T Managed Firewall Service-Server Based (MFS-SB) (Grandfathered)*

Section Effective Date: 28-Feb-2017

AT&T MFS-SB is available only at Customer Sites using ADI with Managed Router, with AT&T Access Channels at speeds of 45 Mbps and lower. AT&T MFS-SB is available with Burstable Billing, provided the screening router has an Ethernet interface. Customer must maintain an ADI with Managed Router arrangement, including an on-site filtering router with an Ethernet connection and a corresponding internal Ethernet LAN.

*AT&T MFS-SB is no longer available to be ordered by new or existing Customers under this Service Guide. AT&T MFS can now be found in the AT&T Managed Security Services Service Guide.

SD-7.2.2. AT&T Managed Firewall Service-Router Based (MFS-RB) (Grandfathered)*

Section Effective Date: 28-Feb-2017

AT&T MFS-RB is available only at Customer Sites using ADI with Managed Router, with AT&T Access Channels at speeds of 1.544 Mbps and lower.

*AT&T MFS-RB is no longer available to be ordered by new or existing Customers under this Service Guide. AT&T MFS-RB can now be found in the AT&T Managed Security Services Service Guide.

SD-7.2.3. AT&T Managed Intrusion Detection Service (requires ADI with Managed Router)

Section Effective Date: 28-Feb-2017

AT&T Managed Intrusion Detection Service (MIDS) is a managed intrusion detection service which is designed (a) to make more detectable unauthorized connections to Customer's host computers through AT&T Dedicated Internet, (b) to provide 24 hours/day monitoring of services to Customer, and (c) to assist Customer to shun unwanted intrusions via a Customer-described security and escalation policy.

MIDS is available on a stand-alone basis or in conjunction with Managed Firewall Service.

MIDS includes the following:

- Installation of MIDS components, depending on Customer architecture, which consists of the sensor(s), secure modem, code actuated switch (CAS), customer service unit / data service unit (CSU/DSU), and remote activated powerdown switch; MIDS hardware and software may be removed, replaced, or updated by AT&T as it deems appropriate.
- Monitoring of the MIDS system on a 7 day per week/24 hour per day basis for predefined attack signatures, and for multiple predetermined Customer defined attack signatures through the Security Network Operations Center.
- Response to network intrusion alarms by logging (recording), shunning (blocking), connection reset, or Customer notification depending on Customer's preset security escalation policy.
- Maintenance and update of MIDS system configuration in accordance with Customer-selected options; AT&T will make configuration changes as directed by the Customer Site security liaison.
- Standard 8X5 maintenance of all AT&T provided hardware and software at Customer's facility.

Customer will maintain a dedicated POTS line for use solely as a back-up access mechanism.

SD-7.2.4. AT&T Network Scanning Service

Section Effective Date: 01-Mar-2005

AT&T Network Scanning Service uses state-of-the-art software to inspect Internet-facing devices for over 900 vulnerabilities. The web-based, Customer-initiated scanning conducts a scan at predetermined monthly or quarterly intervals. The scan can be performed for the entire pool of Customer IP addresses, or a Customer-designated subset of such addresses. Identified vulnerabilities are presented in a report (available via a secure web site) containing detailed information on the vulnerabilities and how to fix them. Limited consultative sessions with an AT&T Security Professional are included.

SD-8. Service Activation Date in the United States

Section Effective Date: 03-Mar-2017

Billing for each ADI Service Component in the United States will begin on the Service Activation Date of that Service Component, unless Customer’s actions or omissions cause a delay of the Service Activation Date beyond its scheduled Service Activation Date, in which case billing will begin on the day after the originally scheduled Service Activation Date for such ADI Service Component.

If customer is eligible and selects ADI on Demand, AT&T will begin billing on the Service Activation Date.

Customer with ADI on Demand will not incur charges for MACDs.

Customer is required to be ready (including having all necessary site preparation work completed) by the Service Activation Date.

If the Customer prevents AT&T from reaching the AT&T Ready Date, AT&T will bill the Customer at the stated Overall Due Date. The Overall Due Date will be communicated to the Customer via the Firm Due Date Confirmation Document email. If the Customer cancels the order, the Customer shall then be responsible for all cancellation charges and fees applicable to the order.

The AT&T Ready Date for a Service Component is the date on which the following criteria have been met:

For ADI with Customer Provided Router, the ADI Access Arrangement has been installed and tested to the Customer Site specified in the sales order form.

For ADI with Manager Router, the ADI Access Arrangement has been installed and tested to the Customer Site specified in the sales order form and the AT&T CPE is delivered on site.

The Service Activation Date for a Service Component is the date on which the following connectivity criteria have been met:

The ADI Access Arrangement has been installed and tested to the Customer Site specified in the sales order form, and AT&T has verified that IP connectivity to the Internet exists.

If Customer has its own domain, Customer's domain has been registered by Customer with ICANN Accredited Registrar and any AT&T-supplied DNS administration and additional DNS servers are operational for Customer's domain.

For ADI with Managed Router, the AT&T CPE* has been correctly configured and installed at the Customer Site specified in the sales order form.

For other ADI Service Components, AT&T has verified that the Service Component is working.

*In some Customer contracts with AT&T, “AT&T CPE” is replaced by the term “AT&T Equipment.” For those contracts, reference to “AT&T CPE” in this Service Guide should be deemed to be a reference to “AT&T Equipment”.

Service Level Agreements

SLA-1. General ADI SLA Terms

Section Effective Date: 28-Feb-2017

Credit Request Process

AT&T has established performance objectives for ADI (including, without limitation, the MPLS PNT feature). While AT&T cannot guarantee that these performance objectives always will be met, AT&T will provide credits to Customer when they are not met. For ADI Sites located outside the US, the SLAs set forth below only apply to orders placed after December 16, 2005. Unless otherwise agreed to by the parties, any SLAs set forth in Customer’s Service Agreement, including prior versions of the Service Guide applicable to such Sites, will continue to apply to ADI Sites located outside the US that were ordered prior to December 16, 2005.

SLAs relating to network performance apply only to traffic traveling within the AT&T Network.

In order to receive a credit for a ADI SLA for a Customer Site located outside the United States, Customer must submit the credit request via the AT&T Business Direct portal by the end of the month following the month in which the provisioning was completed or the trouble was cleared.

In order to receive a credit for an ADI SLA for a Customer Site located within the United States, Customer must submit the credit request by e-mail to the AT&T SLA Administration Center at dispresolution@rdsmail.ims.att.com by the end of the month following the month in which AT&T completed the provisioning or the trouble was cleared.

Customer may not receive credits for more than one of the Latency SLA, Data Delivery SLA and the Site Availability/Time to Restore SLA if AT&T's failure to meet the SLAs is attributable to the same occurrence at the affected ADI Port(s).

Customer may receive:

- only one credit for any calendar day for a particular ADI Port for the ADI Site Availability/Time to Restore SLA;
- only one credit in any calendar month for each of the Network Latency SLA, the Network Data Delivery SLA, and the Network Jitter SLA;
- credits for any Customer Site in a given month totaling no more than the total Covered ADI Monthly Charges for the Customer Site for that month.

Definitions

"Covered ADI Monthly Charges" means:

- the monthly charges for the affected Customer Port, and
- the monthly charges for Optional Features associated with the affected Customer Port.

"Regions" for purposes of the ADI SLAs means the countries listed in the ADI SLA Region and Country Table.

ADI SLA Region and Country Table	
Region	**Countries***
United States (US)	US Mainland, AK, HI, PR, USVI
Western Europe	Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Norway, Spain, Sweden, Switzerland, United Kingdom
The rest of the EMEA countries	Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Israel, Latvia, Liechtenstein, Lithuania, Pakistan, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Turkey
Asia Pacific	Australia, Hong Kong, India, Japan, Korea Democratic Peoples Republic Of, Malaysia, New Zealand, Philippines, Singapore, Taiwan
Caribbean and Latin America	Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Netherlands Antilles, Peru, Venezuela

ADI SLA Region and Country Table	
Region	**Countries***
Canada	Canada
Notes	
*	ADI may not currently be available in all countries listed. Measurements of performance within or between Regions are taken from a selection of AT&T Network Backbone Nodes in the Region and do not necessarily cover all countries listed in a Region

"Groups" for purposes of the ADI SLAs means the countries listed in the ADI SLA Group and Country Table.

ADI SLA Group and Country Table	
Group	**Countries***
Group 1	Austria, Australia, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Singapore, Spain, Sweden, Switzerland, United Kingdom, United States
Group 2	Cyprus, Czech Republic, Greece, Hungary, Israel, Korea/Democratic Peoples Republic, Mexico, Poland
Group 3	Argentina, Bulgaria, Brazil, Chile, Columbia, Estonia, Latvia, Lithuania, Netherlands Antilles, Philippines, Portugal, Romania, Russian Federation, Slovenia, Slovakia, South Africa, Taiwan, Venezuela
Group 4	India, Liechtenstein, Malaysia, Pakistan, Peru, Turkey
Group 5	Ecuador
Notes	
*	ADI may not currently be available in all countries listed.

SLA Exclusions

AT&T is not responsible for failure to meet an SLA resulting from:

- the conduct of Customer or Users of ADI
- the failure or deficient performance of power, equipment, services or systems not provided by AT&T
- delay caused or requested by Customer
- service interruptions, deficiencies, degradations or delays due to access lines or CPE when provided by third parties (except as specifically provided in a particular SLA)
- for sites with ADI Managed Router, service interruptions, deficiencies, degradations or delays that cannot be diagnosed due to a missing or unavailable dedicated POTS line to the modem for out-of-band access

- service interruptions, deficiencies, degradations or delays during any period in which AT&T or its agents are not afforded access to the premises where access lines associated with ADI are terminated or AT&T CPE is located
- service interruptions, deficiencies, degradations or delays during any period when a Service Component is removed from service for maintenance, replacement, or rearrangement purposes or for the implementation of a Customer order
- Customer's election to not release a Service Component for testing and/or repair and to continue using the Service Component
- Force Majeure Conditions
- service interruptions or delays in investigating and/or fixing a trouble affecting a non-US Service Component due to the hours of operation of the local access provider in the country for which Customer is reporting a trouble.
- service interruptions, deficiencies, degradations or delays during routine network maintenance. In the US, routine maintenance is scheduled between 12 am and 6 am - local time - Monday through Friday. For PNT only, routine maintenance is also scheduled on Saturday and Sunday between 12 am and 6 am – local time. Outside the US, all routine maintenance is scheduled Thursday through Sunday. The start and end times will vary by region. Customers are provided notification of the maintenance event 2 weeks in advance.

In addition, ADI SLAs do not apply (a) if Customer is entitled to other available credits, compensation or remedies under Customer's Service Agreement for the same service interruption, deficiency, degradation or delay, (b) for service interruptions, deficiencies, degradations or delays not reported by Customer to AT&T, (c) where Customer reports an SLA failure, but AT&T does not find any SLA failure, and (d) to ADI Sites that are not directly connected to the AT&T Network, such as ADI Sites connected in a cascaded fashion to a directly connected ADI Site.

Use of Alternate Service

If Customer elects to use another means of communications during the period of interruption, Customer must pay the charges for the alternative service used.

SLA-2. ADI On-Time Provisioning SLA

Section Effective Date: 28-Feb-2017

The performance objective for the ADI On-Time Provisioning SLA for ADI Sites located within the US is for AT&T to complete installation of a Covered Access Arrangement at a Customer Site by the Due Date. The performance objective for the ADI On-Time Provisioning SLA for ADI Sites located outside the US is to complete installation of an ADI Service Component (as well as AT&T-provided access lines connected to such Service Component) by the applicable scheduled service activation date.

If AT&T does not meet this performance objective for a Covered Access Arrangement, Customer will be entitled to an ADI On-Time Provisioning SLA credit equal to one month's discounted monthly recurring charge for the ADI Service Component(s) that is not installed on time, after the installation is completed.

The ADI On-Time Provisioning SLA does not apply for ADI with Managed Router installations if the dedicated POTS line is not provided by the Customer,

The ADI On-Time Provisioning SLA does not apply to Service Components that are ordered on an expedited basis. AT&T provides the scheduled service activation date to Customer after a Service Component is ordered. The scheduled service activation date for a Service Component may change if Customer requests any change to a Service Component after ordering.

Covered Access Arrangements and Due Dates

The ADI On-Time Provisioning SLA applies to ADI Sites located in the US Mainland with respect to Covered Access Arrangements, as defined in the following table, and based on the availability dates provided by the local access provider, which may change at any time and without notice to Customer, in which case the SLA start date will be automatically reset to the latest date provided to AT&T by the local access provider. The On-Time Provisioning SLA does not apply with respect to any access arrangement ordered for, and/or associated with, any type of Customer collocation arrangement on AT&T's premises.

Covered Access Arrangement	Due Date
Access of any speed that is provisioned as part of a T1 Access Channel, including multiple T1 configurations	30 calendar days after the date when AT&T issued CCD to Customer
Access of any speed which is provisioned as part of a T3 Access Channel	42 calendar days after the date when AT&T issued CCD to Customer
Access of any speed which is provisioned as part of an OC–3 Access Channel	63 calendar days after the date when AT&T issued CCD to Customer

ADI Express (the following applies to ADI Express only):

- The performance objective for the ADI Express On-Time Provisioning SLA is defined as the Completion of the Customer Site Visit to AT&T Ready.
- The performance objective for ADI Express On-Time Provisioning SLA for ADI Express Sites located within the US 21 states (AR, CA, IL, IN, KS, MI, MO, NV, OH, OK, TX, WI, GA, FL, SC, NC, LA, MS, TN, AL, KY) is for AT&T to complete installation of a Covered Access Arrangement within 30 calendar days from the completion of the customer site visit for locations with AT&T fiber and an Emux in the building
- The performance objective for ADI Express On-Time Provisioning SLA for ADI Express Sites located within the US 21 states (AR, CA, IL, IN, KS, MI, MO, NV, OH, OK, TX, WI, GA, FL, SC, NC, LA, MS, TN, AL, KY) is for AT&T to complete installation of a Covered Access Arrangement within 60 calendar days from the completion of the customer site visit for locations with AT&T fiber without an Emux in the building
- If AT&T does not meet this performance objective for ADI Express, Customer will be entitled to an ADI Express On-Time Provisioning SLA credit equal to one month's discounted monthly recurring charge for the ADI Service Component(s) not installed on time, after the installation is completed.

- The ADI Express On-Time Provisioning SLA does not apply for the following:
  - ADI Express with Managed Router installations if the dedicated POTS line is not provided by the Customer
  - Service Components that are ordered on an expedited basis. AT&T provides the scheduled service activation date to Customer after a Service Component is ordered. The scheduled service activation date for a Service Component may change if Customer requests any change to a Service Component after ordering.
  - Out of Region Orders (applicable only in 21 state region)
  - Locations with AT&T fiber beyond 500 foot of the building.

Cross References

SD-2.1. Customer Orders

SLA-3. ADI on Demand On-Time Provisioning SLA

Section Effective Date: 28-Feb-2017

ADI on Demand:

- The performance objective for On-Time Provisioning SLA for ADI on Demand, where available, is determined from date of order submission, with activation within 7 calendar days or the Customer Selected Activation Date (beyond the 7 day period, not to exceed 30 calendar days after the order submitted date).
- If AT&T does not meet the performance objective for ADI on Demand, Customer will be entitled to an ADI on Demand On-Time Provisioning SLA credit equal to one month's discounted monthly recurring charge for the ADI Service Component(s) not activated on time, after the activation is completed.
- The ADI on Demand On-Time Provisioning SLA does not apply for the following:
  - Out of Region Orders (applicable only in 21 state region).
  - Locations with AT&T fiber beyond 500 feet of the building.
  - If Customer changes the original activation date in Business Center.

SLA-4. ADI Site Availability / Time to Restore SLA

Section Effective Date: 28-Feb-2017

The performance objective for the ADI Site Availability/Time to Restore SLA is for the ADI Site Availability to be 100%. If AT&T does not meet this performance objective in any given calendar month, Customer will be eligible for an ADI Site Availability/Time to Restore SLA credit for each Outage equal to the product of Customer's total discounted Covered ADI Monthly Charges for the affected ADI Ports by a percentage based on the duration of (Time to Restore) the Outage, as set forth in the ADI Site Availability/Time to Restore SLA Credit Table.

"Outage" means an occurrence within the AT&T Network and/or the AT&T-provided dedicated access (and in the case of ADI with Managed Router, the AT&T CPE) that is unrelated to the normal functioning of ADI and that results in the inability of Customer to transmit IP packets for more than one minute. Measurement of Time to Restore begins when a trouble ticket is opened by AT&T Customer Care and Customer releases the affected Service Component(s) to AT&T and ends when AT&T Customer Care makes its first attempt to notify Customer that the problem has been resolved and the Service Component(s) are restored and available for Customer to use. Time to Restore excludes Outage time that is outside of the standard operating hours of the local access provider used by AT&T for the affected ADI Port and any delay caused by Customer.

The ADI Site Availability/Time to Restore SLA does not apply for ADI with Managed Router installations if the dedicated POTS line is not provided by the Customer and if it is determined the outage is related to the Managed Router.

ADI Site Availability/Time to Restore SLA Credit Table – Single Link / Single Router						
Time to Restore		**Country Group**				
Equal to or Greater than:	to Less than:	Group 1 Single Link, Single Router	Group 2 Single Link, Single Router	Group 3 Single Link, Single Router	Group 4 Single Link, Single Router	Group 5 Single Link, Single Router
1 Minute	1 Hour	3.3%	3.3%	3.3%	3.3%	3.3%
1 Hour	2 Hours	3.3%	3.3%	3.3%	3.3%	3.3%
2 Hours	3 Hours	10.0%	3.3%	3.3%	3.3%	3.3%
3 Hours	4 Hours	10.0%	10.0%	3.3%	3.3%	3.3%
4 Hours	5 Hours	25.0%	10.0%	10.0%	3.3%	3.3%
5 Hours	6 Hours	25.0%	10.0%	10.0%	3.3%	3.3%
6 Hours	7 Hours	25.0%	25.0%	10.0%	3.3%	3.3%
7 Hours	8 Hours	25.0%	25.0%	10.0%	10.0%	3.3%
8 Hours	9 Hours	50.0%	25.0%	25.0%	10.0%	3.3%
9 Hours	10 Hours	50.0%	25.0%	25.0%	10.0%	3.3%
10 Hours	11 Hours	50.0%	50.0%	25.0%	10.0%	3.3%
11 Hours	12 Hours	50.0%	50.0%	25.0%	25.0%	3.3%
12 Hours	13 Hours	50.0%	50.0%	50.0%	25.0%	3.3%
13 Hours	14 Hours	50.0%	50.0%	50.0%	25.0%	3.3%
14 Hours	15 Hours	50.0%	50.0%	50.0%	50.0%	3.3%
15 Hours	16 Hours	50.0%	50.0%	50.0%	50.0%	3.3%
16 Hours	17 Hours	100.0%	50.0%	50.0%	50.0%	3.3%
17 Hours	18 Hours	100.0%	50.0%	50.0%	50.0%	3.3%
18 Hours	19 Hours	100.0%	100.0%	50.0%	50.0%	3.3%
19 Hours	20 Hours	100.0%	100.0%	50.0%	50.0%	3.3%

ADI Site Availability/Time to Restore SLA Credit Table – Single Link / Single Router						
Time to Restore		**Country Group**				
20 Hours	21Hours	100.0%	100.0%	100.0%	50.0%	3.3%
21Hours	22 Hours	100.0%	100.0%	100.0%	50.0%	3.3%
22 Hours	23 Hours	100.0%	100.0%	100.0%	50.0%	3.3%
23 Hours	24 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
24 Hours	36 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
36 Hours	Over 36 Hours	100.0%	100.0%	100.0%	100.0%	10.0%

ADI Site Availability/Time to Restore SLA Credit Table – Dual Link / Single Router						
Time to Restore		**Country Group**				
Equal to or Greater than:	to Less than:	Group 1 Dual Link Single Router	Group 2 Dual Link Single Router	Group 3 Dual Link Single Router	Group 4 Dual Link Single Router	Group 5 Dual Link Single Router
1 Minute	1 Hour	3.3%	3.3%	3.3%	3.3%	3.3%
1 Hour	2 Hours	25.0%	3.3%	3.3%	3.3%	3.3%
2 Hours	3 Hours	25.0%	10.0%	3.3%	3.3%	3.3%
3 Hours	4 Hours	50.0%	10.0%	10.0%	3.3%	3.3%
4 Hours	5 Hours	50.0%	25.0%	10.0%	10.0%	3.3%
5 Hours	6 Hours	50.0%	25.0%	10.0%	10.0%	3.3%
6 Hours	7 Hours	50.0%	25.0%	25.0%	10.0%	3.3%
7 Hours	8 Hours	50.0%	25.0%	25.0%	10.0%	3.3%
8 Hours	9 Hours	100.0%	50.0%	25.0%	25.0%	3.3%
9 Hours	10 Hours	100.0%	50.0%	25.0%	25.0%	3.3%
10 Hours	11 Hours	100.0%	50.0%	50.0%	25.0%	3.3%
11 Hours	12 Hours	100.0%	50.0%	50.0%	25.0%	3.3%
12 Hours	13 Hours	100.0%	50.0%	50.0%	50.0%	3.3%
13 Hours	14 Hours	100.0%	50.0%	50.0%	50.0%	3.3%
14 Hours	15 Hours	100.0%	50.0%	50.0%	50.0%	3.3%
15 Hours	16 Hours	100.0%	50.0%	50.0%	50.0%	3.3%
16 Hours	17 Hours	100.0%	100.0%	50.0%	50.0%	3.3%
17 Hours	18 Hours	100.0%	100.0%	50.0%	50.0%	3.3%
18 Hours	19 Hours	100.0%	100.0%	100.0%	50.0%	3.3%

ADI Site Availability/Time to Restore SLA Credit Table – Dual Link / Single Router						
Time to Restore		**Country Group**				
19 Hours	20 Hours	100.0%	100.0%	100.0%	50.0%	3.3%
20 Hours	21Hours	100.0%	100.0%	100.0%	100.0%	3.3%
21Hours	22 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
22 Hours	23 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
23 Hours	24 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
24 Hours	36 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
36 Hours	Over 36 Hours	100.0%	100.0%	100.0%	100.0%	10.0%

ADI Site Availability/Time to Restore SLA Credit Table – Dual Link / Dual Router						
Time to Restore		**Country Group**				
Equal to or Greater than:	to Less than:	Group 1 Dual Link Dual Router	Group 2 Dual Link Dual Router	Group 3 Dual Link Dual Router	Group 4 Dual Link Dual Router	Group 5 Dual Link Dual Router
1 Minute	1 Hour	3.3%	3.3%	3.3%	3.3%	3.3%
1 Hour	2 Hours	50.0%	25.0%	3.3%	3.3%	3.3%
2 Hours	3 Hours	50.0%	25.0%	10.0%	3.3%	3.3%
3 Hours	4 Hours	50.0%	50.0%	10.0%	10.0%	3.3%
4 Hours	5 Hours	50.0%	50.0%	25.0%	10.0%	3.3%
5 Hours	6 Hours	50.0%	50.0%	25.0%	10.0%	3.3%
6 Hours	7 Hours	50.0%	50.0%	25.0%	25.0%	3.3%
7 Hours	8 Hours	50.0%	50.0%	25.0%	25.0%	3.3%
8 Hours	9 Hours	100.0%	100.0%	50.0%	25.0%	3.3%
9 Hours	10 Hours	100.0%	100.0%	50.0%	25.0%	3.3%
10 Hours	11 Hours	100.0%	100.0%	50.0%	50.0%	3.3%
11 Hours	12 Hours	100.0%	100.0%	50.0%	50.0%	3.3%
12 Hours	13 Hours	100.0%	100.0%	50.0%	50.0%	3.3%
13 Hours	14 Hours	100.0%	100.0%	50.0%	50.0%	3.3%
14 Hours	15 Hours	100.0%	100.0%	50.0%	50.0%	3.3%
15 Hours	16 Hours	100.0%	100.0%	50.0%	50.0%	3.3%
16 Hours	17 Hours	100.0%	100.0%	100.0%	50.0%	3.3%
17 Hours	18 Hours	100.0%	100.0%	100.0%	50.0%	3.3%

ADI Site Availability/Time to Restore SLA Credit Table – Dual Link / Dual Router						
Time to Restore		**Country Group**				
18 Hours	19 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
19 Hours	20 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
20 Hours	21Hours	100.0%	100.0%	100.0%	100.0%	3.3%
21Hours	22 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
22 Hours	23 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
23 Hours	24 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
24 Hours	36 Hours	100.0%	100.0%	100.0%	100.0%	3.3%
36 Hours	Over 36 Hours	100.0%	100.0%	100.0%	100.0%	10.0%

SLA-5. ADI Latency SLA

Section Effective Date: 28-Feb-2017

The performance objectives for the ADI Latency SLA are for the ADI Latencies within and between Regions to be no greater than the latencies set forth in the ADI Latency Performance Objectives Table.

If AT&T does not meet a performance objective in a given calendar month, Customer will be eligible for a ADI Latency SLA credit equal to 1/30th of Customer's total discounted ADI Monthly Charges for all ADI Ports in the affected Region(s) for that month.

"ADI Latency" is a monthly measure of the AT&T network-wide delay within the Region or between Regions, which is the average interval of time it takes during the applicable calendar month for test packets of data to travel between all selected pairs of AT&T Network Backbone Nodes in the Region(s). Specifically, the time it takes test packets to travel from one AT&T Network Backbone Node in a pair to another and back is measured for all selected pairs of AT&T Network Backbone Nodes in the Region(s) over the month. Latency for the month is the average of all of these measurements.

"AT&T Network Backbone Nodes" are the core routing nodes in the AT&T Network.

ADI Latency Performance Objectives Table	
Within Region	**Performance Objective**
United States (US)	37 ms
Europe	22 ms
EMEA except Western Europe	35 ms
Asia Pacific	80 ms
Canada	40 ms
Caribbean and Latin America	135 ms

ADI Latency Performance Objectives Table	
Within Region	**Performance Objective**
Between Regions	
Asia Pacific to US West Coast	150 ms
Asia Pacific to Europe	245 ms
Europe to US East Coast	90 ms
Europe to US West Coast	160 ms
US to Caribbean and Latin America	110 ms
US to Canada	25 ms

SLA-6. ADI Data Delivery SLA

Section Effective Date: 28-Feb-2017

The performance objectives for the ADI Data Delivery SLA are for the ADI Data Delivery percentages within and between Regions to be no less than those set forth in the ADI Data Delivery Performance Objectives Table. If AT&T does not meet this performance objective in a given calendar month, Customer will be eligible for a ADI Data Delivery SLA credit equal to 1/30th of Customer's total discounted Covered ADI Monthly Charges for all ADI Ports in the affected Region(s) for that month.

The “ADI Data Delivery Percentage” for a Region or between Regions is the average Data Delivery percentage for that month for all selected pairs of AT&T IP Backbone Nodes in the Region(s) calculated by dividing Data Received by Data Delivered and multiplying by 100.

"Data Delivered" is the number of test packets of data delivered in a month by AT&T to an ingress router at an AT&T Network Backbone Node for delivery to an egress router at the other specific AT&T Network Backbone Node in the selected pair.

"Data Received" is the number of such test packets of data that are actually received by the egress router at the other AT&T Network Backbone Node.

ADI Data Delivery Performance Objectives Table	
Within Region	**Performance Objective**
United States (US)	99.95%
Europe	99.90%
EMEA except Western Europe	99.90%
Asia Pacific	99.90%
Between Regions	
Asia Pacific to US West Coast	99.90%
Asia Pacific to Europe	99.90%
Europe to US East Coast	99.90%

ADI Data Delivery Performance Objectives Table	
Within Region	**Performance Objective**
Europe to US West Coast	99.90%
US to Caribbean and Latin America	99.90%
US to Canada	99.90%

SLA-7. ADI Jitter SLA

Section Effective Date: 28-Feb-2017

The performance objective for the ADI Jitter SLA is for ADI Jitter in a given month to be no more than the jitter set forth in the ADI Jitter Performance Objectives Table.

If AT&T does not meet this performance objective, Customer will be eligible for a ADI Jitter SLA credit equal to 1/30th of Customer's total discounted Covered ADI Monthly Charges for all ADI Ports in the affected Regions(s) for that month.

“ADI Jitter” is a monthly measure of the AT&T Network-wide IP packet delay variation within or between the applicable Region(s), which is the average difference in the interval of time it takes during the applicable calendar month for selected pairs of test packets of data in data streams to travel between selected pairs of AT&T Network Backbone Nodes in the Region(s). Specifically, the difference in time it takes a selected pair of test packets in a data stream to travel from one AT&T Network Backbone Node in a pair to another is measured for all selected pairs of AT&T Network Backbone Nodes in the Region(s) over the month. One of the test packets in the selected pair will always be a packet in the data stream that takes the least time to travel from one AT&T Network Backbone Node in the pair to another. ADI Jitter within or between Regions for the month is the average of all of these measurements in the Region(s).

ADI Jitter Performance Objectives Table	
Within Region	**Performance Objective**
United States (US)	1.0 ms
EMEA (excluding Western Europe)	1.2 ms
Europe	1.2 ms
Asia Pacific	1.2 ms
Canada	1.2 ms
Caribbean and Latin America	1.2 ms
Between Regions	
Asia Pacific to US West Coast	1.2 ms
Asia Pacific to Europe	1.2 ms
Europe to US East Coast	1.2 ms
Europe to US West Coast	1.2 ms

ADI Jitter Performance Objectives Table	
Within Region	**Performance Objective**
US to Caribbean and Latin America	1.2 ms
US to Canada	1.2 ms

Pricing

P-1. Local Access Combination Pricing Option

Section Effective Date: 28-Feb-2017

As of April 4, 2011, rates for ADI Local Access Combination Pricing Option are found in the Service Guide for AT&T Bandwidth Services. See Section SD-2.2.4 ADI Local Access Combination Option and associated Cross References.

P-2. Switched Ethernet Access Channels

Section Effective Date: 03-Oct-2012

As of April 4, 2011, rates for Ethernet Access Channels – Switched (formerly known as Switched Ethernet Access Channels) are found in the Service Guide for AT&T Bandwidth Services. See Section SD-2.3.19.2.2. Ethernet Access Channel – Switched and associated Cross References. See rate tables for US Domestic Ethernet Access Channels – Switched excluding connections to Ethernet IOCs.

P-3. General Rates and Charges

Section Effective Date: 28-Feb-2017

If Customer's agreement for ADI includes access connections provided by AT&T, the rates for access connections do not include Special Construction or Additional Access Charges (including, but not limited to, build out costs, or costs incurred by AT&T in connection with installation of local channel access). After placing an order, the Customer may be notified that Special Construction and/or Additional Access Charges apply because, for example, the access service provider must install special equipment or incur unusual expenses to establish service. Facilities construction relating to Special Construction and/or Additional Access Charges will not begin until the Customer has agreed in writing to pay the Special Construction and/or Additional Access Charges.

If the Customer authorizes the special construction and then cancels an Order before completion of the Special Construction, a Cancellation Charge will apply. The Cancellation Charge will include all non-recoverable costs incurred by AT&T for the Special Construction and/or Additional Access Charges.

If, after placing an order for an access service and agreeing to pay Special Construction and/or Additional Access Charges, Customer terminates or cancels AT&T VPN or related Services (including local channel access), Customer shall remain obligated to pay the Special Construction and/or Additional Access Charges identified prior to termination or cancellation.

P-4. Rate Table ADI-NRDCPE-CHRG – Non-Returned/Damaged CPE Charge

Section Effective Date: 01-Jun-2017

Rate Table ADI-NRDCPE-CHRG: ADI-Non-Returned/Damaged CPE Charge	
Speed/Port Type	**Non-Returned/Damaged CPE Charge**
56 Kbps	$1,107.00
Fractional T1 and T1	$1,107.00
MLPPP (3.0 and 6.0 Mbps)	$2,371.00
MLPPP (7.5, 9.0, 10.5 and 12.0 Mbps)	$5,989.00
Fractional T3 and T3	$5,989.00
OC3	$15,837.00
OC12	$15,837.00
OC48	$15,837.00
Ethernet	$2,311.00

Cross References

SD-4.2. ADI with Managed Router

Country-Specific Provisions

CSP-1. Argentina

Section Effective Date: 31-Dec-2016

This provision can be found in the General Provisions.

CSP-1.1. Billing – BusinessMail Web-based Electronic Invoicing

Section Effective Date: 30-Dec-2016

- Customer agrees that AT&T may deliver invoices to Customer by means of BusinessMail web-based billing.
- AT&T enables Customer to access BusinessMail by using a User ID and Password. It is the Customer’s responsibility to authenticate their BusinessMail account.
- Customer must provide AT&T with the Company Tax ID and the name, telephone number, e-mail address of the Customer's designated billing contact for purpose of electronic invoice review and payment.
- AT&T will notify Customer's designated billing contact by e-mail when an invoice is made available on BusinessMail. Customer must follow instruction to authenticate their BusinessMail account to receive monthly invoice notifications.

- Customer agrees to check BusinessMail at least monthly for invoices regardless if Customer has received e-mail notification of invoice availability.

- Customer agrees that Customer will be deemed to have received each invoice as of the date the invoice is first made available by AT&T and that Customer's failure to access any invoice shall not relieve, waive or delay Customer's obligation to remit payment to AT&T.

- Customer must provide AT&T with 45 days' prior written notice of any change affecting Customer's designated billing contact including changes in contact name, telephone number, e-mail address, by e-mail at calainquiry@rdsmail.ims.att.com or by contacting AT&T Customer Care via telephone numbers listed below.

- email must be 35 characters or less

Customer Care Contact Numbers

Argentina: +1 800 444 3136 or +1 408 454 4274 (toll)

CSP-2. Brazil

Section Effective Date: 31-Dec-2016

This provision can be found in the General Provisions.

CSP-3. Canada

CSP-3.1. Billing – Web-Based Invoicing

Section Effective Date: 13-Nov-2012

Customer agrees that AT&T may deliver invoices to Customer by means of AT&T Web-Based Billing. AT&T enables Customer to access AT&T Web-Based Billing by using a User ID and password. Customer must provide AT&T with the name, telephone number, e-mail and mail addresses of Customer's designated billing contact for this purpose. AT&T will notify Customer's designated billing contact by e-mail when an invoice is made available on the AT&T Web-Based Billing facility. Customer agrees to check the AT&T Web-Based Billing facility at least monthly for invoices regardless if Customer has received AT&T e-mail notification of invoice availability. Customer agrees that Customer will be deemed to have received each invoice as of the date the invoice is made first available by AT&T and that Customer's failure to access any invoice shall not relieve, waive or delay Customer's obligation to remit payment to AT&T. Customer must provide AT&T with 45 days prior written notice of any change affecting Customer's designated billing contact including changes in contact name, telephone number, e-mail and mail addresses, by email at agnscanada@att.com or fax (905-762-7410).

CSP-3.2. Billing – Account Set-up Charge

Section Effective Date: 15-Dec-2005

AT&T charges the Customer an enrollment charge to set up an account under which the Customer's activity occurs. The Customer may request more than one of these accounts. AT&T charge the Customer a monthly fee called a base charge for each invoice issued.

CSP-4. Chile

CSP-4.1. Billing and Payment Currency

Section Effective Date: 11-Dec-2014

Invoices shall be rendered in US Dollars and charges shall be paid in US Dollars.

CSP-4.2. Billing — BusinessMail Web-based Electronic Invoicing

Section Effective Date: 07-Sep-2016

Customer agrees that AT&T may deliver invoices to Customer by means of BusinessMail web-based billing.

- AT&T enables Customer to access BusinessMail by using a User ID and Password. It is the Customer's responsibility to authenticate their BusinessMail account.
- Customer must provide AT&T with the Company Tax ID and the name, telephone number, e-mail address of the Customer's designated billing contact for purpose of electronic invoice review and payment.
- AT&T will notify Customer's designated billing contact by e-mail when an invoice is made available on BusinessMail. Customer must follow instruction to authenticate their BusinessMail account to receive monthly invoice notifications.
- Customer agrees to check BusinessMail at least monthly for invoices regardless if Customer has received e-mail notification of invoice availability.
- Customer agrees that Customer will be deemed to have received each invoice as of the date the invoice is first made available by AT&T and that Customer's failure to access any invoice shall not relieve, waive or delay Customer's obligation to remit payment to AT&T.
- Customer must provide AT&T with 45 days' prior written notice of any change affecting Customer's designated billing contact including changes in contact name, telephone number, e-mail address, by e-mail at calainquiry@rdsmail.ims.att.com or by contacting AT&T Customer Care via telephone numbers listed below.
- Chile – include GIRO/type of business, Comuna/town, and postal code

Customer Care Contact Numbers

Chile: +1 230-020-5500 or +1 408 454 4274 (toll)

CSP-5. Colombia

Section Effective Date: 28-Jan-2015

The service, network characteristics and all technical, economic and legal conditions have been negotiated and mutually agreed and, thus, are the result of a particular and direct agreement between the parties. Therefore, the parties stipulate that the terms specified in CRC Resolutions, including but not limited to, Consumer Protection (Resolution CRC 3066, 2011), Quality of Service, (Resolution CRC 3067, 2011) and other related regulations that can instead be mutually agreed, will not apply to this contractual relationship.

CSP-5.1. Charges

Section Effective Date: 15-Dec-2005

Unless otherwise mandated by Colombian law, invoices for all applicable charges shall be rendered in US Dollars, and payment shall be made in US Dollars. If any law, rule or regulation of a competent Colombian authority requires that payment for services rendered in Colombia must be made in Colombian Pesos, payment shall be made in the equivalent amount in Colombian Pesos based on the official exchange rate or "Tasa Representativa del Mercado" ("T.R.M."), set on the day immediately prior to the date the payment is made.

CSP-6. Ecuador

CSP-6.1. Billing and Payment Currency

Section Effective Date: 15-Dec-2005

Invoices shall be rendered in US Dollars and charges shall be paid in US Dollars.

CSP-6.2. Billing – BusinessMail Web-based Electronic Invoicing

Section Effective Date: 07-Sep-2016

- Customer agrees that AT&T may deliver invoices to Customer by means of BusinessMail web-based billing.
- AT&T enables Customer to access BusinessMail by using a User ID and Password. It is the Customer’s responsibility to authenticate their BusinessMail account.
- Customer must provide AT&T with the Company Tax ID and the name, telephone number, e-mail address of the Customer's designated billing contact for purpose of electronic invoice review and payment.
- AT&T will notify Customer's designated billing contact by e-mail when an invoice is made available on BusinessMail. Customer must follow instruction to authenticate their BusinessMail account to receive monthly invoice notifications.
- Customer agrees to check BusinessMail at least monthly for invoices regardless if Customer has received e-mail notification of invoice availability.
- Customer agrees that Customer will be deemed to have received each invoice as of the date the invoice is first made available by AT&T and that Customer's failure to access any invoice shall not relieve, waive or delay Customer's obligation to remit payment to AT&T.
- Customer must provide AT&T with 45 days' prior written notice of any change affecting Customer's designated billing contact including changes in contact name, telephone number, e-mail address, by e-mail at calainquiry@rdsmail.ims.att.com or by contacting AT&T Customer Care via telephone numbers listed below.

Customer Care Contact Numbers

Ecuador: +1 408 454 4274 (toll)

CSP-7. France

CSP-7.1. General

Section Effective Date: 28-Feb-2017

Due to limitations of the local access supplier in France, the ADI service will not be able to obtain a full throughput in accordance with the bandwidth rate ordered by the customer. AT&T performed network testing and concluded that the customer should receive the actual throughput at a rate of approximately 90% of the bandwidth ordered.

CSP-7.2. Ethernet Access

Section Effective Date: 28-Feb-2017

Certain Ethernet access suppliers used for sites in France employ ATM protocol facilities that add ATM-related overhead, which may reduce traffic throughput on the Ethernet access connection. When such connections are used, actual bandwidth throughput may be less than the bandwidth of the ADI Port.

CSP-7.3. Subrate E-1 Managed Access Content

Section Effective Date: 30-Nov-2010

As of August 1, 2010, the Subrate E-1 Access Component is no longer available for new orders, or for moves, adds, or changes.

CSP-8. Germany

CSP-8.1. Managed Access Connection

Section Effective Date: 01-Dec-2010

Effective October 31, 2010, Subrate E-1 access is no longer available.

CSP-9. Italy

CSP-9.1. Use of Personal Information

Section Effective Date: 09-Apr-2011

Customer shall not use AT&T Service to communicate, transmit, disperse or process, content and/or information and/or data regarding any person, company association or other type of entity (“Personal Data”), in violation of any right of a person or entity to whom/which the data refers to and/or any third party or in breach of any applicable provision of law, including but not limited to any privacy law and regulation or other obligation to safeguard Personal Data (“Privacy Law”).

Customer hereby acknowledges and agrees that transmission, communication, supply, use and/or processing of Personal Data requires prior express written consent of the individual person or entity to whom the data refers and Customer hereby agrees to secure such consent as needed to comply with the applicable Privacy Laws. Consent should be expressed freely and with specific reference to a clearly identified processing activity. Person/entity that the Personal Data refers to should be previously informed by Customer of (i) the purposes and modalities of the Personal Data processing, (ii) the facultative or mandatory nature of the processing, (iii) the consequences of a possible denial to provide the Personal data, (iv) the details of the data controller (i.e., Customer), (v) the rights of the person/entity the data refers to, i.e., rights to obtain information on their data, their updating and their blocking or erasure.

Customer hereby represents and warrants that any and all Personal Data has been obtained and processed in accordance with the applicable Privacy Laws.

AT&T, as data controller of the data processing, informs you that personal data provided by you and/or, the company that you represent is collected and processed (with manual instruments and the support of electronic means) for the purposes relating to and/or in connection with (i) negotiation, information gathering and execution of the Agreement; (ii) the provision of Services and other ancillary activities; and, (iii) legal, administrative or accounting obligations as well as historical storage of data.

The above outline of processing activities are obligatory in nature, therefore, if you refuse to provide the required Personal Data, AT&T will not be able to provide these services.

Customer may at any time contact its AT&T account manager to obtain or determine what Personal Data AT&T has, and request that such data be updated, deleted or no longer used.

CSP-10. Japan

CSP-10.1. Customer Responsibilities

Section Effective Date: 28-Feb-2017

At ADI with Customer Provided Router Sites, Customer may require terminal adapters for the local access connection. Customers must order, install and maintain their own terminal adapters.

CSP-11. Malaysia

CSP-11.1. Billing and Payment

Section Effective Date: 15-Dec-2005

Monthly Recurring Charges for local access leased line circuits are payable quarterly in advance.

CSP-12. Mexico

CSP-12.1. Billing and Payment

Section Effective Date: 15-Dec-2005

Invoices shall be rendered in US Dollars and charges shall be paid in US Dollars or its equivalent amount in Mexican Pesos, using the exchange rate published in the “Diario Oficial de la Federación” the same day payment is made.

CSP-12.2. Billing – BusinessMail Web-based Electronic Invoicing

Section Effective Date: 07-Sep-2016

- Customer agrees that AT&T may deliver invoices to Customer by means of BusinessMail web-based billing.

- AT&T enables Customer to access BusinessMail by using a User ID and Password. It is the cCustomer’s responsibility to authenticate their BusinessMail account.
- Customer must provide AT&T with the Company Tax ID and the name, telephone number, e-mail address of the Customer's designated billing contact for purpose of electronic invoice review and payment.
- AT&T will notify Customer's designated billing contact by e-mail when an invoice is made available on BusinessMail. Customer must follow instruction to authenticate their BusinessMail account to receive monthly invoice notifications.
- Customer agrees to check BusinessMail at least monthly for invoices regardless if Customer has received e-mail notification of invoice availability.
- Customer agrees that Customer will be deemed to have received each invoice as of the date the invoice is first made available by AT&T and that Customer's failure to access any invoice shall not relieve, waive or delay Customer's obligation to remit payment to AT&T.
- Customer must provide AT&T with 45 days' prior written notice of any change affecting Customer's designated billing contact including changes in contact name, telephone number, e-mail address, by e-mail at calainquiry@rdsmail.ims.att.com or by contacting AT&T Customer Care via telephone numbers listed below.

Customer Care Contact Numbers

Mexico: +1 800 710 2709 or +1 408 454 4274 (toll)

CSP-13. Netherlands Antilles

CSP-13.1. Installation

Section Effective Date: 28-Feb-2017

For ADI Customer Sites located outside the island of Curacao, AT&T will provide installation support remotely over the telephone only. On-site installation assistance is available for an additional charge.

CSP-13.2. Billing and Payment Currency

Section Effective Date: 15-Dec-2005

Invoices shall be rendered in US Dollars and charges shall be paid in US Dollars.

CSP-14. Pakistan

CSP-14.1. Local Access

Section Effective Date: 15-Dec-2005

The Customer must order and coordinate the provisioning and installation of the local dedicated leased line, Frame Relay or ATM circuit from the local access provider. The access provider will invoice the Customer separately for applicable one time and ongoing access circuit and network termination charges. Customer must report all troubles with service provided by the local access provider directly to the local access provider.

CSP-15. Peru

CSP-15.1. Billing and Payment

Section Effective Date: 15-Dec-2005

AT&T will invoice all applicable charges in US Dollars, and Customer shall pay all charges in US Dollars. If any law, rule or regulation of a competent Peruvian authority requires that payment for services rendered in Peru must be made in Nuevo Soles, the invoice will include the equivalent amount in Nuevo Soles based on the official exchange rate of the Banco Central de la Reserva del Peru on the day immediately prior to the invoice date.

CSP-15.2. Installation

Section Effective Date: 28-Feb-2017

For ADI Customer Sites located more than 100 kilometers from Lima, AT&T will provide installation support remotely over the telephone only. On-site installation assistance is available for an additional charge.

CSP-16. Philippines

CSP-16.1. General

Section Effective Date: 28-Feb-2017

ADI is provided by Innove Communications, Inc. The local Customer Company representative must complete and sign a separate local service agreement with Innove Communications, Inc. before ADI is deployed.

CSP-16.2. Billing and Payment

Section Effective Date: 15-Dec-2005

Monthly Recurring Charges for local access leased line circuits are payable quarterly in advance.

CSP-17. Russia

CSP-17.1. General

Section Effective Date: 15-Jun-2010

Customer and AT&T must execute a Russia Service Addendum covering terms and pricing for Services provided in Russia, or in the case of a move, add, change, or delete, an Amendment to Russia Service Addendum, in either case before such Services are provided. In the case of disconnecting site(s) in Russia, Customer must provide a signed Russian Cancellation Letter.

CSP-18. Singapore

CSP-18.1. Local Access

Section Effective Date: 28-Feb-2017

Frame Relay Access is not available. ADI is only available to corporate business customers and not to individual consumers.

CSP-19. Switzerland

CSP-19.1. Managed Access Connection

Section Effective Date: 01-Dec-2010

As of September 30, 2010, the Subrate E-1 Access Component is no longer available for new orders.

CSP-20. Venezuela

CSP-20.1. Billing and Payment

Section Effective Date: 15-Dec-2005

Unless otherwise mandated by Venezuelan law, invoices for all applicable charges shall be rendered in US Dollars, and payment shall be made in US Dollars. If any law, rule or regulation of a competent Venezuelan authority requires that payment for services rendered in Venezuela must be made in Bolivares, payment shall be made at the exchange rate published by the Banco Central de Venezuela the day before the payment is made.

End of Service Guide

DMS-0607-086
Amendment 6
EXHIBIT 1
SLAs pertaining to System Installation Order Placement

	System Installation Order Placement (CSA: Rental and Lease)		
1	New voice system installation	Configuration 1	10% MRC of Service* if delay > 30 days 25% MRC of Service* if delay > 35 days 50% MRC of Service* if delay > 40 days 100% MRC of Service* if delay > 45 days
2		Configuration 2	10% MRC of Service* if delay > 45 days 25% MRC of Service* if delay > 50 days 50% MRC of Service* if delay > 55 days 100% MRC of Service* if delay > 60 days
3		Configuration 3	10% MRC of Service* if delay > 75 days 25% MRC of Service* if delay > 80 days 50% MRC of Service* if delay > 85 days 100% MRC of Service* if delay > 90 days
4		Configuration 4	10% MRC of Service* if delay > 90 days 25% MRC of Service* if delay > 95 days 50% MRC of Service* if delay > 100 days 100% MRC of Service* if delay > 105 days
5	New individual component	> 10 business days	10% MRC of Service* ordered

- Reduction in MRC applies only to the month(s) in which the delay occurred.

1. *Configuration 1: Up to 100 stations.*

   a. New voice system installation refers to the responsibility of installing and configuring the entire voice system within the specified service level threshold of days depicted for Configuration 1 (30 business days). The voice system must be completely operational; otherwise, the service level violation is subject to the appropriate percentage of ALL subscribed monthly service charges in the pricing calculator for all affected sites. All new system installations can be negotiated with the customer and stated utilizing the CSA request date, but the CSA request date becomes the new system installation service level date. The request date is the date that the customer expects the voice system to be completely operational.

   - *SLA is dependent on the PSTN circuits being operational (per AT&T specifications) at least five (5) business days prior to system cutover.*

   - *In all cases, the timer does not begin until the change request has been accepted by AT&T Operations. This ensures that we have all of the information required to facilitate the change. The normal time required from CSA receipt and Purchase Order for installation is 5 business days. Therefore, the minimum quote for installation from CSA receipt is 35 business days.*

2. Configuration 2: 101 to 400 stations

   a. New voice system installation refers to the responsibility of installing and configuring the entire voice system within the specified service level threshold of days depicted for Configuration 2 (45 business days).

The voice system must be completely operational; otherwise, the service level violation is subject to the appropriate percentage of ALL subscribed monthly service charges in the pricing calculator for all affected sites. All new system installations can be negotiated with the customer and stated utilizing the CSA request date, but the CSA request date becomes the new system installation service level date. The request date is the date that the customer expects the voice system to be completely operational. Comply based on the following caveats.

- *SLA is dependent on the PSTN circuits being operational (per AT&T specifications) at least ten (10) business days prior to system cutover.*

- *In all cases, the timer does not begin until the change request has been accepted by AT&T Operations. This ensures that we have all of the information required to facilitate the change. The normal time required from CSA receipt and Purchase Order for installation is 5 business days. Therefore, the minimum quote for installation from CSA receipt is 50 business days.*

3. Configuration 3: 401-1000 Stations
   a. New voice system installation refers to the responsibility of installing and configuring the entire voice system within the specified service level threshold of days depicted for Configuration 3 (75 business days). The voice system must be completely operational; otherwise, the service level violation is subject to the appropriate percentage of ALL subscribed monthly service charges in the pricing calculator for all affected sites. All new system installations can be negotiated with the customer and stated utilizing the CSA request date, but the CSA request date becomes the new system installation service level date. The request date is the date that the customer expects the voice system to be completely operational. Comply based on the following caveats.

- *SLA is dependent on the PSTN circuits being operational (per AT&T specifications) at least fifteen (15) business days prior to system cutover.*

- *In all cases, the timer does not begin until the change request has been accepted by AT&T Operations. This ensures that we have all of the information required to facilitate the change. The normal time required from CSA receipt and Purchase Order for installation is 5 business days. Therefore, the minimum quote for installation from CSA receipt is 80 business days.*

4. Configuration 4: Over 1000 Stations
   a. New voice system installation refers to the responsibility of installing and configuring the entire voice system within the specified service level threshold of days depicted for Configuration 4 (90 business days). The voice system must be completely operational; otherwise, the service level violation is subject to the appropriate percentage of ALL subscribed monthly service charges in the pricing calculator for all affected sites. All new system installations can be negotiated with the customer and stated utilizing the CSA request date, but the CSA request date becomes the new system installation service level date. The request date is the date that the customer expects the voice system to be completely operational. Comply based on the following caveats.

- *SLA is dependent on the PSTN circuits being operational (per AT&T specifications) at least twenty (20) business days prior to system cutover.*

- *In all cases, the timer does not begin until the change request has been accepted by AT&T Operations. This ensures that we have all of the information required to facilitate the change. The normal time required from CSA receipt and Purchase Order for installation is 5 business days. Therefore, the minimum quote for installation from CSA receipt is 95 business days.*

5.

6. Equipment

a. New individual component delivery refers to once an order is received via CSA, the responsibility of shipping and delivering the component within the specified service level threshold of days (10 business days). Any service level violation is subject to the appropriate percentage of the entire cost of the component(s). *Comply based on the following caveats.*

- *In all cases, the timer does not begin until the change request has been accepted by AT&T Operations. This ensures that we have all of the information required to facilitate the change.*

- *This only applies to station equipment, not gateways or edge devices unless agreed to otherwise.*

SLAs pertaining to Operation Services

	Operational Services (CSA: Management Option)		
1	Adds, Moves, Changes	> 3 business days	50% MRC of Service* ordered if performance target not met.
2	System Programming	> 5 business days	50% MRC of Service* if performance target not met.
3	Notification of outages	> 30 minutes	5% MRC of Service*
4	Notification of degradation	> 60 minutes	5% MRC of Service*
5	Post mortem reports	> 2 business days	10% MRC of Service*

- Reduction in MRC applies only to the month(s) in which the delay occurred.

1. Vendor Management Option Services are crucial since the customer has placed their trust in operating their communication services in the hand of the AT&T partners. Any MAC service level violation is subject to the appropriate percentage of the entire monthly charge for vendor management and monthly support services for the impacted licensed end points/users. When the MAC orders are considered extensive in either aggregate quantity or complexity, an agreement with customer and AT&T should be developed in advance via a statement of work process, identifying the agreed upon deadlines. SLA penalties will be applied according to the new deadlines. *Comply based on the following caveats.*

    - *Caveat: In all cases, the timer does not begin until the change request has been accepted by AT&T. This ensures that we have all of the information required to facilitate the change.*
    - *Caveat: All "Adds, Moves, Changes" MUST be submitted to AT&T via AT&T's "bulk provisioning spreadsheet" or other approved document or process.*
    - *Caveat: All required information to perform "Adds, Moves, and Changes" must be complete and accurate.*

2. System programming refers to the requirements for programming the PBX and/or any complimentary system that is a part of the customer's day-to-day operations in accordance with their requirements (excluding IVR and Call Center solutions). As an example and not limited to, system digit translation or manipulation, change in class of service, feature enablement or disablement, dial plan programming, etc. Any MAC service level violation is subject to the appropriate percentage of the entire monthly charge for vendor management and monthly support services for the impacted licensed end points/users. When the system programming requests are considered extensive in either aggregate quantity or complexity, an agreement with customer and AT&T should be developed in advance via a statement of work process. *Comply based on the following caveats.*

    - *Caveat: In all cases, the timer does not begin until the change request has been accepted by AT&T. This ensures that we have all of the information required to facilitate the change.*
    - *Caveat: All required information to perform "System Programming" MUST be complete and accurate.*

3. Notification of outages refers to the responsibility to report outages to all affected customers as well as SUNCOM NOC. This is not limited to only vendor management and applies to all AT&T (Lease/Rental) customers. Any notification service level violation is subject to the appropriate percentage of the entire monthly charge for monthly support services per affected site. *AT&T will provide notification of system outages to all preauthorized customer contacts via their 'group administrator' and to the SUNCOM NOC via email notification. The time of the email transmission will be used to determine the time of notification. AT&T will not be responsible for any delivery latency or delivery failure of the email notification not within their control.*

4. Notification of service degradation refers to the responsibility to report service degradation conditions to all affected customers as well as SUNCOM NOC. This is not limited to only vendor management and applies to all AT&T (Lease/Rental) customers. Any notification service level violation is subject to the appropriate percentage of the entire monthly charge for monthly support services per affected site. *AT&T will provide notification of service degradation that impact major and/or critical services to the relevant preauthorized customer contacts via their 'group administrator' and to the SUNCOM NOC via email notification. The time of the email transmission will be used to determine the time of notification. AT&T will not be responsible for any delivery latency or delivery failure of the email notification not within their control.*

5. Post mortem reports refer to responsibility to provide full and detailed root cause analysis of the outages/issues to the customer and the SUNCOM NOC. Any post mortem report service level violation is subject to the appropriate percentage of the entire monthly charge for monthly support services per affected site. *AT&T will provide a post mortem report "at the completion" of the analysis of any system outage or major service impact. The time required for the "completion" of the analysis will NOT be limited to "2 business days". The time for delivery of the report will be based on the time required to complete the analysis. The report will be distributed to all relevant preauthorized customer contacts via their 'group administrator' and to the SUNCOM NOC via email notification. The time of the email transmission will be used to determine the time of notification. AT&T will not be responsible for any delivery latency or delivery failure of the email notification not within their control.*

SLAs pertaining to System Up-Time Support

	SLA	Performance Violation/Concern	Performance Credit
	System Up-Time Support (CSA: Lease and Rental)		
1	Response to repairs for major outages	Complete systems failure	10% MRC of Service* if outage > 4 hours 25% MRC of Service* if outage > 8 hour 50% MRC of Service* if outage > 12 ours 100% MRC of Service* if outage > 24 hours
2		Complete operational tools service outage	
3		Trunk card failure causing > 20% of the trunk lines to fail or trunk rotary to operate improperly	10% MRC of Service* if outage > 24 hours 25% MRC of Service* if outage > 48 hour 50% MRC of Service* if outage > 72 hours 100% MRC of Service* if outage > 84 hours
4		Station ration failure > 20%	
5		Noise problems due to equipment failure	
6 7	Response to repairs for minor outages	Individual voice component outages	100% MRC of Service* if outage > 24 hours

- Reduction in MRC applies only to the month(s) in which the delay occurred.

NOTE: all "outages" are uninterrupted periods of time

1. Complete System failure refers to any failure that renders the system inoperable. Since the calculator has unbundled the system into sub systems, such as the baseline phone system processing core, the Voicemail/UM, and the ACD systems, the complete system failure is applicable to each sub-system. This service level violation is subject to ALL subscribed monthly service charges in the pricing calculator for all affected sites. In addition, the Monthly Recurring Charges (MRC) will be relevant to the MRC associated with the subsystem and associated License. For example, should the Voicemail system fail inoperable, while the phone system remain operational, then the MRC will be associated with charges related to the Voicemail/UM core, core upgrade & the Voicemail/UM licenses for that failed site. *Comply with included exceptions listed above.*

2. Complete Operational Tool service outage refers to any incident which affects the customer/SUNCOM NOC access to the vendor provided operational tools. The MRC associated with this service level is the entire customer monthly obligations associated with the monthly support services for affected site(s). Monthly support services refer to the services that were included in the pricing calculator as a new column. *Comply with included exceptions listed above.*

3. Greater than 20% Trunk Card/Trunk Lines failure refers to percentage of outages that prevent customer accessing PSTN or Private Network (depending on the trunk/line configuration) facilities. This service level violation is subject to the appropriate percentage of ALL subscribed monthly service charges in the pricing calculator for the affected sites. *Comply with included exceptions listed above and the following additional exception.*

   - *This will only apply to AT&T if the root cause is determined to be part of the Clearspan equipment/solution.*

4. Greater than 20% Station Ratio failure refers to percentage of outages that prevent users/stations access the system facilities, services and/or features. This service level violation is subject to the appropriate percentage of ALL subscribed

monthly service charges in the pricing calculator for the affected sites*. Comply with included exceptions listed above and the following additional exception.*

- *This is only applicable to mission critical services and/or features.*

5. Noise problems due to equipment failure refer to any or all noise problems associated with faulty or poorly configured equipment and/or services. This service level violation is subject to the appropriate percentage of ALL subscribed monthly service charges in the pricing calculator for the affected sites. In the event that the system is fully operational, and noise affects only a specific few users (less than 20%), then the MRC shall be associated with any charges associated with those stations. If the few stations comprises 20% or more of the total number of stations, then the MRC will be based on the entire customer monthly obligations for the affected site(s*). Comply with included exceptions listed above and the following additional exception.*

- *This is limited to consistent or chronic issues, and the source of the noise problem must be due to a Clearspan equipment failure.*

6. Individual voice component outages refer to single voice component failure that does not affect any other systems/services operation. This service level violation is subject to the appropriate percentage of ALL subscribed monthly service charges in the pricing calculator associated with that specific component.

- *Caveat: The replacement of a station in 24 hours is only possible for requests of in stock AT&T sets received before noon CST and deliverable to a listed overnight next morning FEDEX location.*

7. Individual service operation tools are defined as any tool(s) that are used to operate and manage the overall voice service and associated components including not but limited to MAC, monitoring, measuring, reporting, and troubleshooting suites. This service level violation is subject to the appropriate percentage of the entire monthly support services charges for the affected sites. *Comply with included exceptions listed above and the following additional exception.*

- *This is only applicable to mission critical services and/or features.*

Excluded Events

The following shall be excluded from SLA calculations, as applicable:

- *Approved Scheduled Maintenance: Scheduled Maintenance includes preventative maintenance and may also include Hardware and Software changes to increase capacity and add functionality.*
- *Third-Party Intrusions.*
- *Misuse or abuse of Clearspan or any Customer premises equipment by the Customer (e.g., unauthorized use, malicious use, etc.)*
- *Repair by other than AT&T, or unauthorized modification, alteration or changes by other than AT&T.*
- *Failure of any system not directly under AT&T's ownership and/or control (e.g., carrier's routing systems, Customer premises equipment, Customer's commercial power or electrical work, loss of central office facilities, or loss of fiber etc.)*
- *Connection of non-compatible equipment,*
- *Public Network Infrastructure (PSTN and Internet) Issues*
- *Force Majeure events including but not limited to fire, flood, wind, lightning, or other acts of God.*
- *Failure to maintain proper environmental conditions for the Hardware.*
- *Outages resulting from actions by AT&T at the request or direction of Customer*
- *Actions taken by AT&T to protect the Clearspan or other Customer premises equipment from external threat such as attack by virus, worm, or other force known or suspected to be a threat to the availability.*
- *Issues induced by other than AT&T, including but not limited to Issues arising out of computer viruses and Issues arising out of Buyer not maintaining current software service packs and manufacturer-supplied security updates.*

City of Daytona Beach Shores

Budgetary

Lease Option

Wednesday, March 3, 2021

City Hall-Community Center-Public Works	Qty	SCS Contract Rate	Extended Monthly	Non Recurring Charge
UC Premium License	30	$15.35	$460.50	
UC Standard License	8	$14.30	$114.40	
Auto Attendant	1	$16.05	$16.05	
AudioCodes 500L SBC-Session Border Controller	1	$48.00	$48.00	$48.00
Polycom 350 VVX Phone	34	$5.00	$170.00	
Polycom Trio 8500 Conference phone	4	$21.22	$84.88	$84.88
AudioCodes Maintenance Support Annual				$0.00
Auto Attendant provisioning	1	$399.00		$399.00
User Set up fee for provisioning	39	$16.71		$651.69
Provisioning, configuration for SBC	1	$1,000.00		$1,000.00
Sub Total			**$893.83**	**$2,183.57**

Public Safety-Public Saftey Annex

	Qty	SCS Contract Rate	Extended Monthly	Non Recurring Charge
UC Premium License	26	$15.35	$399.10	
UC Standard License	10	$14.30	$143.00	
Auto Attendant	1	$16.05	$16.05	
AudioCodes 500L SBC-Session Border Controller	1	$48.00	$48.00	$48.00
Polycom 350 VVX Phone	36	$5.00	$180.00	$180.00
Polycom Trio 8500 Conference phone				$0.00
AudioCodes Maintenance Support Annual				$0.00
Auto Attendant provisioning	1	$399.00		$399.00
User Set up fee for provisioning	37	$16.71		$618.27
Provisioning, configuration for SBC	1	$1,000.00		$1,000.00
Sub Total			**$786.15**	**$2,245.27**

Additional pro services

AT&T

Department of
MANAGEMENT
SERVICES

City of Daytona Beach Shores

Budgetary

Purchase Option

Wednesday, March 3, 2021

City Hall-Community Center-Public Works	Qty	SCS Contract Rate	Extended Monthly	Non Recurring Charge
UC Premium License	30	$15.35	$460.50	
UC Standard License	8	$14.30	$114.40	
Auto Attendant	1	$16.05	$16.05	
AudioCodes 500L SBC-Session Border Controller	1	$642.00		$642.00
Polycom 350 VVX Phone	34	$153.45		$5,217.30
Polycom Trio 8500 Conference phone	4	$650.00		$2,600.00
AudioCodes Maintenance Support Annual	1	$276.29		$276.29
Auto Attendant provisioning	1	$399.00		$399.00
User Set up fee for provisioning	39	$16.71		$651.69
Sub Total			**$590.95**	**$9,786.28**

Public Safety-Public Saftey Annex

	Qty	SCS Contract Rate	Extended Monthly	Non Recurring Charge
UC Premium License	26	$15.35	$399.10	
UC Standard License	10	$14.30	$143.00	
Auto Attendant	1	$16.05	$16.05	
AudioCodes 500L SBC-Session Border Controller	1	$642.00		$642.00
Polycom 350 VVX Phone	36	$153.45		$5,524.20
Polycom Trio 8500 Conference phone		$650.00		$0.00
AudioCodes Maintenance Support Annual	1	$398.00		$398.00
Auto Attendant provisioning	1	$399.00		$399.00
User Set up fee for provisioning	37	$16.71		$618.27
Sub Total			**$558.15**	**$7,581.47**

Additional pro services

SBC Installation, implemention, Configuration — Added Total $1,000.00

36 Month monthly recurring on equipment
Total $ 14625.50 Total montly cost: 3,264.00
This would make your total Monthly 3,822.15
The One time charge portion would drop to: $ 3,742.25

AT&T MA Reference No. eMSA UA III
AT&T PS Contract ID MIS14238362

AT&T

AT&T DEDICATED INTERNET
PRICING SCHEDULE

Customer	AT&T
DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFTEY Street Address: 3050 S ATLANTIC AVE City: DAYTONA BEACH SHORES State/Province: FL Zip Code: 32118-6102 Country: US	AT&T Corp.
Customer Contact (for Notices)	**AT&T Contact (for Notices)**
Name: Michael Booker Title: Manager Street Address: 3050 S ATLANTIC AVE City: DAYTONA BEACH SHORES State/Province: FL Zip Code: 32118-6102 Country: US Telephone: 3867635373 Email: mbooker@cityofdbs.org	Name: MICHAEL COFIELD Street Address: 1820 E PARK AVE SHARED City: TALLAHASSEE State/Province: FL Zip Code: 32308 Country: US Telephone: 8502280293 Email: mc778t@exo.att.com Sales/Branch Manager: Michael Harbaugh SCVP Name: JAMES H GWIAZDA Sales Strata: Federal Sales Region: USA **With a copy (for Notices) to:** AT&T Corp. One AT&T Way Bedminster, NJ 07921-0752 ATTN: Master Agreement Support Team Email: mast@att.com
AT&T Solution Provider or Representative Information (if applicable) ☐	
Name: Company Name: Agent Street Address: City: State: Zip Code: Country: Telephone: Fax: Email: Agent Code:	

This Pricing Schedule is part of the Agreement between AT&T and Customer referenced above.

Customer (by its authorized representative)	**AT&T** (by its authorized representative)
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

AT&T MA Reference No. eMSA UA III
AT&T PS Contract ID MIS14238362

AT&T DEDICATED INTERNET
PRICING SCHEDULE

1. SERVICES

Service	Service Publication Location
AT&T Dedicated Internet (ADI) - ADI Express	http://serviceguidenew.att.com/sg_flashPlayerPage/MIS
AT&T Bandwidth Services	http://serviceguidenew.att.com/sg_flashPlayerPage/BWS
AT&T Wi-Fi Services - AT&T Business Wi-Fi	http://serviceguidenew.att.com/sg_flashPlayerPage/AWS

2. PRICING SCHEDULE TERM AND EFFECTIVE DATES

Pricing Schedule Term	24 months
Pricing Schedule Term Start Date	Effective Date of this Pricing Schedule
Effective Date of Rates and Discounts	Effective Date of this Pricing Schedule

3. MINIMUM PAYMENT PERIOD

Service Components	Percent of Monthly Service Fees Due Upon Termination Prior to Completion of Minimum Payment Period	Minimum Payment Period per Service Component
All Service Components	50%	Longer of 12 months or until the end of the Pricing Schedule Term

4. RATES

Section I: AT&T Dedicated Internet

Table 1: ADI Self – Installation

Discount: 100.00%

ADI Speed	Undiscounted ADI	Undiscounted ADI w/ Managed Router
Ethernet	$1,500.00	$1,500.00**

**Pricing available for ADI speeds of 100 Mbps and below and with electrical interfaces only

Table 2: On-Site Installation

Discount: 100.00%

ADI Speed	Undiscounted ADI w/ Managed Router Only
Ethernet	$1,500.00

AT&T DEDICATED INTERNET
PRICING SCHEDULE

Table 3: Hi Cap Flex Billing Option – Ethernet (10 Mbps to 1 Gbps) - Group 1, 2, and 3
Available bandwidth levels are subject to qualification at time of each order and may vary.

Bandwidth	Discounted Ethernet Access Monthly Fee Group 1	Discounted Ethernet Access Monthly Fee Group 2	Discounted Ethernet Access Monthly Fee Group 3	Minimum Bandwidth Commitment		Undiscounted Incremental Usage Fee Per Mbps
				Undiscounted ADI w/ Customer Router Monthly Fee	Undiscounted ADI w/ AT&T Managed Router Monthly Fee	
10 Mbps	$400.00	$421.00	$635.00	$268.00	$396.00	$198.00
20 Mbps	$420.00	$449.00	$758.00	$449.00	$577.00	$144.25
50 Mbps	$524.00	$572.00	$968.00	$813.00	$955.00	$95.50
100 Mbps	$604.00	$651.00	$1,280.00	$1,400.00	$1,555.00	$77.75
150 Mbps	$610.00	$677.00	$1,412.00	$1,800.00	$1,965.00	$65.50
250 Mbps	$900.00	$900.00	$1,667.00	$2,150.00	$2,240.00	$44.80
400 Mbps	$1,100.00	$1,100.00	$2,201.00	$2,700.00	$3,380.00	$42.25
500 Mbps	$1,100.00	$1,100.00	$2,239.00	$3,500.00	$4,325.00	$43.25
600 Mbps	$1,100.00	$1,100.00	$2,807.00	$4,096.00	$4,840.00	$40.33
1000 Mbps	$1,300.00	$1,300.00	$3,184.00	$4,505.00	$5,620.00	$28.10
Discount:				**83.00%**	**83.00%**	**83.00%**

Table 4: Hi Cap Flex Billing Option – Ethernet (2 Gbps to 10 Gbps) – Group 1, 2, 3, and 4
Available bandwidth levels are subject to qualification at time of each order and may vary.

Bandwidth	10 Gbps Discounted Ethernet Access Monthly Fee Group 1	10 Gbps Discounted Ethernet Access Monthly Fee Group 2	10 Gbps Discounted Ethernet Access Monthly Fee Group 3	10 Gbps Discounted Ethernet Access Monthly Fee Group 4	Minimum Bandwidth Commitment		Undiscounted Incremental Usage Fee Per Mbps
					Undiscounted ADI w/ Customer Router Monthly Fee	Undiscounted ADI w/ AT&T Managed Router Monthly Fee	
2 Gbps	$4,000.00	$6,397.00	$10,151.44	NA	$9,091.00	$12,276.00	$30.69
3 Gbps	$4,000.00	$6,397.00	$10,151.44	NA	$13,309.00	$17,981.00	$29.97
4 Gbps	$4,000.00	$6,397.00	$10,151.44	NA	$16,015.00	$21,591.00	$26.99
5 Gbps	$4,000.00	$6,397.00	$10,151.44	NA	$18,196.00	$24,553.00	$24.55
6 Gbps	$4,000.00	$6,397.00	$10,151.44	NA	$21,309.00	$28,768.00	$23.97
7 Gbps	$4,000.00	$6,397.00	$10,151.44	NA	$24,218.00	$32,727.00	$23.38
8 Gbps	$4,000.00	$6,397.00	$10,151.44	NA	$26,953.00	$36,387.00	$22.74
9 Gbps	$4,000.00	$6,397.00	$10,151.44	NA	$28,931.00	$39,069.00	$21.71
10 Gbps	$4,000.00	$6,397.00	$10,151.44	NA	$30,909.00	$41,716.00	$20.86
Discount:					**83.00%**	**83.00%**	**83.00%**

AT&T DEDICATED INTERNET
PRICING SCHEDULE

Section II: Additional Service Fees

Moving Fee (during hours)	$1,000 per location
Additional Moving Fee (outside standard operating hours – 8:00 a.m. to 5:00 p.m. Monday through Friday)	Additional $500.00 per location

Section III: AT&T Business Wi-Fi (ABW)
No discounts apply.

AT&T Business Wi-Fi (ABW) per AP per month Rate	$30.00

End of Pricing Schedule

Proposal for

City of Daytona Beach Shores

Presented March 2 2021

Pricing-At-A-Glance	
Services:POTS - Analog Lines	

Pricing Summary			
Description	**Quantity**	**Unit Price**	**Totals**
POTS BLC SE (AFL)	23	$46.00	$1,058.00
One-Time Costs			
Installation			**WAIVED**
Total			**$0.00**

Month 1 Cost (before taxes)	**$1,127.99**
Total Monthly Cost (before taxes)	**$1,058.00**

To ask questions or place an order, contact:

Mitchell Shafer

Fiber Public Sector

M 732-788-7180

mx742u@att.com

Spectrum Enterprise

Fiber Internet Access Service Level Agreement

This document outlines the Service Level Agreement ("SLA") for Fiber Internet Access ("FIA") fiber-based service (the "Service").

This SLA is a part of, and hereby incorporated by reference into the Spectrum Enterprise Service Agreement (including the terms and conditions, attachments, and Service Orders described therein, the "Agreement"). To the extent any provision of this SLA conflicts with the Agreement, this SLA shall control. All SLA Targets in the table below are measured at the individual circuit or service level, and any applicable credits are issued only for the affected FIA circuit or service (the "Affected Service"). Capitalized words used, but not defined herein, shall have the meanings given to them in the Agreement.

I. SLA Targets for FIA Services:

Service Availability	Mean Time To Restore ("MTTR")	Latency / Frame Delay (Roundtrip)	Jitter / Frame Delay Variation	Packet Loss / Frame Loss
End to End: 99.99%	Priority 1 Outages within 4 hours	45ms	<2ms	<0.1%

II. Priority Classification:

A "Service Disruption" is defined as an outage, disruption, or severe degradation, other than an Excluded Disruption, that interferes with the ability of a Spectrum Enterprise network hub to: (i) transmit and receive network traffic on Customer's dedicated access port at the Spectrum Enterprise network hub; and (ii) exchange network traffic with another Spectrum Enterprise network hub. The Service Disruption period begins when Customer reports a Service Disruption using Spectrum Enterprise's trouble ticketing system by contacting Customer Care, Spectrum Enterprise acknowledges receipt of such trouble ticket, Spectrum Enterprise validates that the Service is affected, and Customer releases the Service for testing. The Service Disruption ends when the affected Service has been restored.

"Service Degradation" means a degradation of the Service that is not a Service Disruption or a result of an Excluded Disruption, such as failure of the Service to achieve the SLA Targets for Latency / Frame Delay, Jitter / Frame Delay Variation, or Packet / Frame Loss.

"Excluded Disruptions" means (i) planned outages, (ii) routine or urgent maintenance, (iii) time when Spectrum Enterprise is unable to gain access to Customer's premises, if necessary, (iv) service issues arising from acts of omissions of Customer or Customer's representatives or agents, (v) Customer equipment failures, (vi) Customer is not prepared to release the Service for testing, and (vii) Force Majeure Events.

Spectrum Enterprise will classify Service problems as follows:

Priority	Criteria
Priority 1	Each a "Priority 1 Outage": • Service Disruption resulting in a total loss of Service; or • Service Degradation to the point where Customer is unable to use the Service and is prepared to release it for immediate testing
Priority 2	• Service Degradation where Customer is able to use the Service and is not prepared to release it for immediate testing.
Priority 3	• A service problem that does not impact the Service; or • A single non-circuit specific quality of Service inquiry.

III. Service Availability

"Service Availability" is calculated as the total number of minutes in a calendar month less the number of minutes that the FIA Service is unavailable due to a Priority 1 Outage ("Downtime"), divided by the total number of minutes in a calendar month.

The following table contains examples of the percentage of Service Availability translated into minutes of Downtime for the 99.99% Service Availability Target:

Percentage by Days Per Month	Total Minutes / Month	Downtime Minutes
99.99% for 31 Days	44,640	4.5
99.99% for 30 Days	43,200	4.3
99.99% for 29 Days	41,760	4.2
99.99% for 28 Days	40,320	4

IV. Mean Time to Restore ("MTTR")

The MTTR measurement for Priority 1 Outages is the average time to restore Priority 1 Outages during a calendar month calculated as the cumulative length of time it takes Spectrum Enterprise to restore an FIA Service following a Priority 1 Outage in a calendar month divided by the corresponding number of trouble tickets for Priority 1 Outages opened during the calendar month for the FIA Service.

MTTR per calendar month is calculated as follows:

$$\frac{\text{Cumulative length of time to restore Priority 1 Outage(s) per FIA Service}}{\text{Total number of Priority 1 Outage trouble tickets per FIA Service}}$$

V. Latency / Frame Delay

Latency or Frame Delay is the average roundtrip network delay, measured every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, to adequately determine a consistent average monthly performance level for frame delay for each FIA Service. The roundtrip delay is expressed in milliseconds (ms). Spectrum Enterprise measures frame delay on an end-to-end basis using a standard 64 byte ping from the Customer dedicated access port at the Customer premise to the Spectrum Enterprise Internet access router in a roundtrip fashion.

Latency is calculated as follows:

$$\text{Latency/Frame Delay} = \frac{\text{Sum of the roundtrip delay measurements for an FIA Service}}{\text{Total \# of measurements for an FIA Service}}$$

VI. Packet Loss / Frame Loss Ratio

Packet Loss or Frame Loss Ratio is defined as the percentage of frames that are not successfully received compared to the total frames that are sent in a calendar month, except where any packet or frame loss is the result of an Excluded Disruption. The percentage calculation is based on frames that are transmitted from a network origination point and received at a network destination point (Spectrum Enterprise network hub to Customer dedicated access port at the Customer premise).

Packet Loss / Frame Loss Ratio is calculated as follows:

Packet Loss / Frame Loss (%) = 100 (%) – Frames Received (%)

VII. Jitter / Frame Delay Variation

Jitter or Frame Delay Variation is defined as the variation in delay for two consecutive frames that are transmitted (one-way) from a network origination point and received at a network destination point (Spectrum Enterprise network hub to Customer dedicated access port at the Customer premise). Spectrum Enterprise measures a sample set of frames every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, and determines the average delay between consecutive frames within each sample set. The monthly Jitter / Frame Delay Variation is calculated as the average of all of the frame delay variation measurements during such calendar month and is expressed in milliseconds (ms).

$$\text{Jitter / Frame Delay Variation} = \frac{\text{Sum of the Frame Delay Variation measurements for an FIA Service}}{\text{Total \# of measurements for an FIA Service}}$$

VIII. Network Maintenance

Maintenance Notice:
Customer understands that from time to time, Spectrum Enterprise will perform network maintenance for network improvements and preventive maintenance. In some cases, Spectrum Enterprise will need to perform urgent network maintenance, which will usually be conducted within the routine maintenance windows. Spectrum Enterprise will use reasonable efforts to provide advance notice of the approximate time, duration, and reason for any urgent maintenance outside of the routine maintenance windows.

Maintenance Windows:
Routine maintenance may be performed Monday – Friday 12 a.m. – 6 a.m. Local Time.

IX. Remedies

Service Credits:
If the actual performance of an FIA Service during any calendar month is less than the SLA Targets and Customer is in compliance with the terms of the Agreement and this SLA, then Customer may request credit equal to the corresponding percentage of monthly Service Charges for the Affected Service as set forth in the table below. Any credit to be applied will be off-set against amounts due from Customer to Spectrum Enterprise in the billing cycle following the date Spectrum Enterprise makes its credit determination. Credit requests must be submitted to Spectrum Enterprise within 30 days of the calendar month in which the SLA Target was missed. Spectrum Enterprise will exercise commercially reasonable efforts to respond to such Service Credit requests within thirty (30) days of receipt thereof.

Service Availability	Mean Time To Restore ("MTTR")		Latency / Frame Delay (Roundtrip)	Jitter / Frame Delay Variation	Packet Loss / Frame Loss
30%	> 4 hours ≤ 7:59:59 hours	4%	5%	5%	5%
	> 8 hours	10%			

All SLA Targets are monthly measurements, and Customer may request only one credit per SLA Target per month for the Affected Service. Should one event impact more than one SLA hereunder, Customer shall receive the single highest of the qualifying credits only. Except as set forth below, the credits described in this SLA shall constitute Customer's sole and exclusive remedy, and Spectrum Enterprise's sole and exclusive liability, with respect to any missed SLA Targets. Service Credits hereunder shall not be cumulative per Service.

Chronic Priority 1 Outages:

If Customer experiences and reports three (3) separate Priority 1 Outages where the Downtime exceeds four (4) hours during each Priority 1 Outage within three (3) consecutive calendar months, then Customer may terminate the Affected Service without charge or liability by providing at least thirty (30) days written notice to Spectrum Enterprise; provided, however, that (i) Customer may only terminate the Affected Service; (ii) Customer must exercise its right to terminate the Affected Service by providing written notice to Spectrum Enterprise within thirty (30) days after the event giving rise to Customer's termination right; (iii) Customer shall have paid Spectrum Enterprise all amounts due at the time of such termination for all Services provided by Spectrum Enterprise pursuant to the Agreement, and (iv) the foregoing termination right provides the sole and exclusive remedy of Customer and the sole and exclusive liability of Spectrum Enterprise for chronic Priority 1 Outages and Customer shall not be eligible for any additional credits. Termination will be effective forty-five (45) days after Spectrum Enterprise's receipt of such written notice of termination.

Spectrum ENTERPRISE

Spectrum Enterprise
Hosted Communications Service Level Agreement

This document outlines the Service Level Agreement ("SLA") for Hosted Communications Service (the "Services").

This SLA is a part of, and hereby incorporated by reference into the Spectrum Enterprise Service Agreement (including the terms and conditions, attachments, and Service Orders described therein, the "Agreement"). To the extent any provision of this SLA conflicts with the Agreement, this SLA shall control. This SLA document applies only to services provided over Spectrum Enterprise's own network ("On-Net") and not any portion that is provided by a third party. All SLA Targets in the table below are measured at the individual circuit or service level (i.e., up to and including the Spectrum Enterprise provided Local Area Network device), and any applicable credits are issued only for the affected On-Net circuit or service (the "Affected Service"). Capitalized words used, but not defined herein, shall have the meanings given to them in the Agreement.

I. SLA Targets for On-Net Services:

Service Availability	Mean Time To Restore ("MTTR")
99.99%	Priority 1 Outages within 4 hours

II. Priority Classification:

A "Service Disruption" is defined as an outage, disruption, or severe degradation, other than an Excluded Disruption that interferes with the ability of a Spectrum Enterprise Hosted Communications Service to complete inbound and/or outbound voice calls. The Service Disruption period begins when Customer reports a Service Disruption using Spectrum Enterprise's trouble ticketing system by contacting Customer Care, Spectrum Enterprise acknowledges receipt of such trouble ticket, Spectrum Enterprise validates that the Service is affected, and Customer releases the Service for testing. The Service Disruption ends when the affected Service has been restored.

"Service Degradation" means a degradation of the Service that is not a Service Disruption or a result of an Excluded Disruption, but Customer's use of the Service is impacted.

"Excluded Disruptions" means (i) planned outages, (ii) routine or urgent maintenance, (iii) time when Spectrum Enterprise is unable to gain access to Customer's premises to troubleshoot, repair or replace equipment or the Service, (iv) service problems resulting from acts of omissions of Customer or Customer's representatives or agents, (v) Customer equipment failures, (vi) Customer is not prepared to release the Service for testing, and (vii) Force Majeure Events.

Spectrum Enterprise will classify Service problems as follows:

Priority	Criteria
Priority 1	a. Service Disruption resulting in a total loss of Service; or b. Service Degradation to the point where Customer is unable to use the Service and releases it for immediate testing (each a "Priority 1 Outage").
Priority 2	Service Degradation where Customer is able to use the Service and does not release it for immediate testing.
Priority 3	a. A service problem that does not impact the Service; or b. A single non-circuit or trunk specific quality of Service inquiry.

III. Service Availability

"Service Availability" is calculated as the total number of minutes in a calendar month less the number of minutes that the On-Net Service is unavailable due to a Priority 1 Outage ("Downtime"), divided by the total number of minutes in a calendar month.

IV. Mean Time to Restore ("MTTR")

The MTTR measurement for Priority 1 Outages is the average time to restore Priority 1 Outages during a calendar month calculated as the cumulative length of time it takes Spectrum Enterprise to restore an On-Net Service following a Priority 1 Outage in a calendar month, divided by the corresponding number of trouble tickets for Priority 1 Outages opened during the calendar month for the On-Net Service.

MTTR per calendar month is calculated as follows:

$$\frac{\text{Cumulative length of time to restore Priority 1 Outage(s) per On-Net Service}}{\text{Total number of Priority 1 Outage trouble tickets per On-Net Service}}$$

V. Network Maintenance

Maintenance Notice:

Customer understands that from time to time, Spectrum Enterprise will perform network maintenance for network improvements and preventive maintenance. In some cases, Spectrum Enterprise will need to perform urgent network maintenance, which will usually be conducted within the routine maintenance windows. Spectrum Enterprise will use reasonable efforts to provide advance notice of the approximate time, duration, and reason for any urgent maintenance outside of the routine maintenance windows.

Maintenance Windows:

Routine maintenance may be performed Monday – Friday 12 a.m. – 6 a.m. Local Time.

VI. Remedies

Outage Service Credits:

If the Downtime exceeds one (1) hour and/or the MTTR exceeds four (4) hours during any calendar month, and Customer has complied with the requirements in this SLA, then Customer may request credit(s) equal to the percentage(s) of the Monthly Service Charge for the affected Service as set forth in the table below. Any credits will be applied as an off-set against any amounts due from Customer to Spectrum Enterprise. All credits must be: (i) requested by the Customer within 30 days of a Service Disruption by calling the Customer Care Center and opening a trouble ticket, and (ii) confirmed by Spectrum Enterprise engineering support teams as associated with a trouble ticket and exceeding the allowable measurements.

SERVICE AVAILABILITY		MEAN TIME TO RESTORE ("MTTR")	
Downtime	**Service Credit**	**MTTR**	**Service Credit**
> 15 minutes ≤ 24 hours	4%	> 4 hours ≤ 7:59:59 hours	4%
> 24 hours	33.3%	> 8 hours	33.3%

Except as set forth below, the credits described in this SLA shall constitute Customer's sole and exclusive remedy, and Spectrum Enterprise's sole and exclusive liability, with respect to Spectrum Enterprise's failure to meet any SLA Targets. Customer shall not be eligible for credits exceeding four (4) months of Customer's applicable Monthly Service Charges during any calendar year.

Chronic Priority 1 Outages:

If Customer experiences and reports three (3) separate Priority 1 Outages that are eligible for credits in three (3) consecutive calendar months, then Customer may terminate the affected Service without charge or liability by providing at least thirty (30) days written notice to Spectrum Enterprise; provided, however, that (i) Customer may only terminate the affected Service; (ii) Customer must exercise its rights to terminate the affected Service by providing written notice to Spectrum Enterprise within thirty (30) days after the event giving rise to Customer's termination right; (iii) Customer shall have paid Spectrum Enterprise all amounts due at the time of such termination for all Services provided by Spectrum Enterprise pursuant to the Service Agreement; and (iv) the foregoing termination right provides the sole and exclusive remedy of Customer and the sole and exclusive liability of Spectrum Enterprise for chronic Priority 1 Outages and Customer shall not be eligible for any additional credits. Termination will be effective forty-five (45) days after Spectrum Enterprise's receipt of such written notice of termination.

City of Daytona Beach Shores

4/5/2021

Location Name	Address	Service Type	Bandwidth	Install Cost	Total Monthly Cost	Term
FIA/coax						
	3050 S ATLANTIC AVE, DAYTONA BEACH SHORES	Fiber Internet Access	500 MG	$ -	$ 1,075	36
	2990 S ATLANTIC AVE, DAYTONA BEACH SHORES	Coax	600 x 35	$ 99	$ 200	MTM
	Coax lines at each site	Coax	each		$ 49.99	MTM

This quote is budgetary and subject to approval by Charter's Finance department.
Pricing is subject to change if products change or if address changes.
Proposal is good for 60 days

Stephanie Roberts | Strategic Account Manager
407.415.8083 M
485 N Keller Rd |Maitland, FL 32751

Spectrum ENTERPRISE

City of Daytona Beach Shores
4/5/2021

Location Name	Address	Service Type	Install Cost	Monthly Price	Quantity of Products	Total Monthly Cost	Term
UC	KEEPING EXISTING PHONES WITH MAINTENANCE/NEW AGREEMENT						
Option 1							
	2990 S ATLANTIC AVE, DAYTONA BEACH SHORES	UC				$ 653.50	36
		UC Connect		25.50	23	$ 586.50	
		Basic License		21.00	2	$ 42.00	
		Cisco 502- maintenance		1.00	1	$ 1.00	
		Cisco 508- maintenance		1.00	23	$ 23.00	
		Polycom 6000-maintenance		1.00	1	$ 1.00	
	11 BELLEMEAD DR, DAYTONA BEACH SHORES	UC				$ 154.50	36
		UC Connect		25.50	5	$ 127.50	
		Basic License		21.00	1	$ 21.00	
		Cisco 502- maintenance		1.00	1	$ 1.00	
		Cisco 508- maintenance		1.00	5	$ 5.00	
	3050 S ATLANTIC AVE, DAYTONA BEACH SHORES	UC				$ 900.00	36
		UC Connect		25.50	24	$ 612.00	
		Basic License		21.00	12	$ 252.00	
		Cisco 502- maintenance		1.00	12	$ 12.00	
		Cisco 508- maintenance		1.00	24	$ 24.00	
	3000 BELLEMEAD DR, DAYTONA BEACH SHORES	UC				$ 167.50	36
		UC Connect		25.50	3	$ 76.50	
		Basic License		21.00	4	$ 84.00	
		Cisco 502- maintenance		1.00	2	$ 2.00	
		Cisco 508- maintenance		1.00	3	$ 3.00	
		Polycom 6000-maintenance		1.00	2	$ 2.00	
	TOTAL						
						$ 1,875.50	

This quote is budgetary and subject to approval by Charter's Finance department.
Pricing is subject to change if products change or if address changes.
Proposal is good for 60 days

Stephanie Roberts | Strategic Account Manager
407.415.8083 M
485 N Keller Rd | Maitland, FL 32751

Spectrum ENTERPRISE

City of Daytona Beach Shores

4/5/2021

Location Name	Address	Service Type	Install Cost	Monthly Price	Quantity of Products		Total Monthly Cost	Term
UC	NEW LEASED PHONES WITH NEW AGREEMENT							
Option 2								
	2990 S ATLANTIC AVE, DAYTONA BEACH SHORES	UC					$ 725.50	36
		UC Connect		25.50	23		$ 586.50	
		Basic License		21.00	2		$ 42.00	
		Cisco 6852		4.00	24		$ 96.00	
		Polycom 6000- maintenance		1.00	1		$ 1.00	
	11 BELLEMEAD DR, DAYTONA BEACH SHORES	UC					$ 172.50	36
		UC Connect		25.50	5		$ 127.50	
		Basic License		21.00	1		$ 21.00	
		Cisco 6852		4.00	6		$ 24.00	
	3050 S ATLANTIC AVE, DAYTONA BEACH SHORES	UC					$ 1,008.00	36
		UC Connect		25.50	24		$ 612.00	
		Basic License		21.00	12		$ 252.00	
		Cisco 6852		4.00	36		$ 144.00	
	3000 BELLEMEAD DR, DAYTONA BEACH SHORES	UC					$ 182.50	36
		UC Connect		25.50	3		$ 76.50	
		Basic License		21.00	4		$ 84.00	
		Cisco 6852		4.00	5		$ 20.00	
		Polycom 6000- maintenance		1.00	2		$ 2.00	
	TOTAL						$ 2,088.50	
	Total contract over 36 months						$ 75,186.00	

This quote is budgetary and subject to approval by Charter's Finance department.
Pricing is subject to change if products change or if address changes.
Proposal is good for 60 days

Stephanie Roberts | Strategic Account Manager
407.415.8083 M
485 N Keller Rd | Maitland, FL 32751

Spectrum ENTERPRISE

City of Daytona Beach Shores

4/5/2021

Location Name	Address	Service Type	Purchase Cost	Monthly Price	Quantity of Products	Total Monthly Cost	Term
UC	NEW PURCHASED PHONES WITH NEW AGREEMENT						
Option 3							
	2990 S ATLANTIC AVE, DAYTONA BEACH SHORES	UC	$ 4,020.00			$ 653.50	36
		UC Connect		25.50	23	$ 586.50	
		Basic License		21.00	2	$ 42.00	
		Cisco 6852	$ 110.00		1	$ -	
		Cisco 8811	$ 170.00		23	$ -	
		Polycom 6000-maintenance		1.00	1	$ 1.00	
		Cisco 6852-maintenance		1.00	1	$ 1.00	
		Cisco 8811- maintenance		1.00	23	$ 23.00	
	11 BELLEMEAD DR, DAYTONA BEACH SHORES	UC	$ 960.00			$ 154.50	36
		UC Connect		25.50	5	$ 127.50	
		Basic License		21.00	1	$ 21.00	
		Cisco 6852	$ 110.00		1	$ -	
		Cisco 8811	$ 170.00		5	$ -	
		Cisco 6852- maintenance		1.00	1	$ 1.00	
		Cisco 8811- maintenance		1.00	5	$ 5.00	
	3050 S ATLANTIC AVE, DAYTONA BEACH SHORES	UC	$ 5,400.00			$ 900.00	36
		UC Connect		25.50	24	$ 612.00	
		Basic License		21.00	12	$ 252.00	
		Cisco 6852	$ 110.00		12	$ -	
		Cisco 8811	$ 170.00		24	$ -	
		Cisco 6852- maintenance		1.00	12	$ 12.00	
		Cisco 8811- maintenance		1.00	24	$ 24.00	
	3000 BELLEMEAD DR, DAYTONA BEACH SHORES	UC	$ 730.00			$ 167.50	36
		UC Connect		25.50	3	$ 76.50	
		Basic License		21.00	4	$ 84.00	
		Cisco 6852	$ 110.00		2	$ -	
		Cisco 8811	$ 170.00		3	$ -	
		Polycom 6000-maintenance		1.00	2	$ 2.00	
		Cisco 6852- maintenance		1.00	2	$ 2.00	
		Cisco 8811- maintenance		1.00	3	$ 3.00	
	TOTAL		$ 11,110.00			$ 1,875.50	

This quote is budgetary and subject to approval by Charter's Finance department.
Pricing is subject to change if products change or if address changes.
Proposal is good for 60 days

Stephanie Roberts | Strategic Account Manager
407.415.8083 M
485 N Keller Rd | Maitland, FL 32751

Spectrum ENTERPRISE

Lockwood, David

From: Roberts, Stephanie A <Stephanie.Roberts@charter.com>
Sent: Tuesday, April 27, 2021 3:13 PM
To: Lockwood, David
Cc: Olenik, Scott E
Subject: Spectrum UC/FIA/coax pricing
Attachments: City of Daytona Beach Shores- Service Proposal 04272021.xlsx

Hi Dave! Thank you for your patience as we worked through the new pricing. I have attached the newly approved pricing for your UC/FIA/coax renewal. We were able to get the pricing down to a total contract value of $167,877- since the renewal was viewed as a complete project, my pricing team discounted the FIA. The cost of the Cisco 6852 phones was incorrectly shown at $3, as they are actually $4 per phone. I was unable to change the cost of the phones as equipment cannot be discounted, however, my pricing team was able to account for the discrepancy in the new pricing. I sincerely apologize that both Scott and I missed that. The breakdown is below, as well as the taxes/fees/surcharges. If you have any questions or concerns, please let me know.

FIA- 500 mg
$1,075 per month
$38,700 TCV

Coax- 600 x 35
$200 per month
$7,200 TCV

Coax voice- 26 lines
$49.99 per line
$1,299.74 per month
$46,790.64 TCV

Option 2- new leased phones with new agreement
$2,088.50 per month
$75,186 TCV

Taxes/fees/surcharges
You are exempt from state and local communications tax
FUSF and Regulatory Cost recovery fee (both federal level fees) for UC
Florida state level 911 fee is $.40/line
TRS surcharge is $.10/line
No taxes or fees are due on FIA
SBPP (coax) voice service is billed tax included
Since services are staying the same, there should be no change to taxes/fees on your service- your March 2021 invoice had $176.83 in taxes/fees/surcharges

Thanks,

Stephanie Roberts | Strategic Account Manager
407.415.8083 M
485 N Keller Rd | Maitland, FL 32751

CITY COUNCIL AGENDA MEMORANDUM
MAY 11, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: John Cary, City Attorney
PREPARED BY: Kurt Swartzlander, Finance Director
SUBJECT: Halifax Urgent Care Facility Waiver Consent and Estoppel Agreement

SYNOPSIS:

FISCAL IMPACT STATEMENT:

N/A

BACKGROUND:

This document is presented at the request of Halifax Health.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Recommend Approval

SUGGESTED MOTION:

Authorize Mayor and City Manager to fully execute the document on behalf of the City.

ATTACHMENT: 1. Clean-BV-REV-4-27-21-First Horizon- Noon (Daytona Beach) Ground Lessor's Waiver Consent and Estoppel 4834-6800-1496 v3

THIS INSTRUMENT PREPARED BY:
Chambliss, Bahner & Stophel, P.C.
Liberty Tower, Suite 1700
605 Chestnut Street
Chattanooga, TN 37450
Attention: Rachel E. Edwards

GROUND LESSOR'S WAIVER, CONSENT AND ESTOPPEL

THIS WAIVER, CONSENT AND ESTOPPEL (this "Consent") is made this ____ day of _____________, 2021, by CITY OF DAYTONA BEACH SHORES, a Florida municipality ("Ground Lessor"), whose address is 2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, and HN DBS, LLC (the "Lessee"), a Florida limited liability company whose address is 832 Georgia Avenue, Suite 300, Chattanooga, Tennessee 37402, to FIRST HORIZON BANK ("Lender"), a Tennessee banking corporation whose address is 701 Market Street, Suite 300, Chattanooga, Tennessee 37402.

WITNESSETH:

WHEREAS, Lessee is the lessee of certain real property located in Volusia County, Florida, and more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Premises"), which Lessee is leasing from Ground Lessor pursuant to that certain Gross Lease Agreement between Ground Lessor and Halifax Medical Center as tenant dated September 9, 2019, as assigned to and assumed by Lessee pursuant to the Assignment and Assumption Agreement effective December 8, 2020, and as amended by Lease Amendment dated December 3, 2020 between Ground Lessor and Lessee (collectively, the "Lease"); and

WHEREAS, Lessee, pursuant to a Leasehold Mortgage Security Agreement and Fixture Filing of even date herewith to be recorded in the Volusia County Clerk's Office as amended (the "Mortgage"), granted Lender, as security for a certain loan Lender made to Lessee, a security interest in Lessee's leasehold estate created pursuant to the Lease and in all other rights and interests of Lessee in connection with the Premises; and

WHEREAS, Ground Lessor agrees to: (i) consent to the security interests granted pursuant to the Mortgage; and (ii) make the other covenants set forth herein;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Ground Lessor and Lessee hereby agree as follows:

1. Ground Lessor hereby consents to the Mortgage. In the event of a default under the Mortgage, the Lender shall have the right to be substituted for the Lessee under the Lease with all the rights and obligations of Lessee under the Lease.

2. Ground Lessor agrees that Lender, through its authorized representatives, may enter upon the Premises at any time and from time to time for purposes of exercise of Lender's rights pursuant to Mortgage.

3. Ground Lessor warrants to Lender that:

(a) the Lease is in full force and effect, and has not been modified, amended or terminated;

(b) Lessee does not have an option to purchase the Premises pursuant to the Lease; and

4. Lessee has complied with all obligations owed Ground Lessor by Lessee including without limitation the payment of rents as and when due.

5. Ground Lessor agrees to give Lender prompt written notice of the occurrence of any event which, with the giving of notice or passage of time or both, could result in the creation of the right of Ground Lessor to terminate the Lease. Such written notice shall be provided to Lender within seven (7) days after Ground Lessor has knowledge of the occurrence of such event and shall be sent to the offices of Lender at the address set forth above. Notwithstanding any provisions of the Lease, no notice of termination thereof given by or on behalf of Ground Lessor shall be effective unless Lender has received said notice and has failed within the following applicable cure period (the "Cure Period") to cure Lessee's default: (i) thirty (30) days after notice to cure, any failure to pay, and any monetary payments due under the Lease; and (ii) sixty (60) days after notice to cure any other default; provided that Lessee or Lender is diligently pursuing the cure. During any Cure Period for a payment default pursuant to (i) of the preceding sentence, Lender shall make all lease payments to the Ground Lessor and ensure that any past due lease payments have been made. If lease payments are not being made by Lessee, and if such payments are not made by Lender, the Cure Period for any non-payment default shall be deemed ended. If Lease payments are being made, the Cure Period granted to Lender herein shall be extended by any period of time during which Lender is diligently pursuing the cure of a default which cannot reasonably be expected to be cured within the Cure Period. Ground Lessor agrees not to alter or amend the Lease without Lender's prior written consent, which consent shall not be unreasonably withheld.

6. Ground Lessor further agrees that if the Lease shall terminate for any reason or be rejected or disaffirmed pursuant to any bankruptcy law or any other law affecting creditors' rights, Lender and its assigns shall have the right, exercised by written notice to Ground Lessor within sixty (60) days after Lender's receipt of notice of such termination, rejection or disaffirmation, to enter into a new lease of the Premises with Ground Lessor subject to the same terms and conditions as the current Lease. It is the intention of the parties hereto that such new lease shall have the same priority relative to the other rights and interests to or in the fee estate in the Premises covered by the new lease as the Lease. Ground Lessor agrees that "possession" pursuant to the United States Bankruptcy Code, 11 U.S.C. § 101 et. seq., shall include possession of the Premises by subtenants of Lessee, so long as such subtenants are specifically approved by the Ground Lessor or deemed approved by Ground Lessor in accordance with the Ground Lease. Ground Lessor acknowledges that Lender is a third party beneficiary of all of Lessee's rights under 11 U.S.C. § 365(h).

7. The laws of Florida shall govern the validity, interpretation and enforcement of this Consent.

8. Ground Lessor acknowledges the loan made to Lessee by Lender to be of benefit to Ground Lessor and that said loan will enable Lessee to construct the improvements upon the Premises which generates income to make the rental payments to Ground Lessor. Ground Lessor further acknowledges the reliance of Lender on the terms hereof in making such loan.

9. This Consent shall be binding upon the parties hereto and their respective successors and assigns, and shall not be modified by the parties hereto unless any modification is agreed to by Lender in writing. Ground Lessor agrees that this Consent may be enforced by and shall inure to the benefit of Lender's successors and assigns.

(Signature page attached)

IN WITNESS WHEREOF, Ground Lessor and Lessee have caused this Consent to be executed by their duly authorized representatives as of the date first above written.

GROUND LESSOR:

WITNESSES:

CITY OF DAYTONA BEACH SHORES

By: ____
Name: ______________________________________
Title: ______________________________________

____
Name:_______________________________________

____
Name:_______________________________________

STATE OF FLORIDA :
:
COUNTY OF VOLUSIA :

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____, 2021 by ___________________, _________________________, of CITY OF DAYTONA BEACH SHORES, a Florida municipality, on behalf of the municipality, who is personally known to me or has produced ____ ________ as identification.

(NOTARY SEAL)

____
NOTARY SIGNATURE

____
PRINTED NOTARY SIGNATURE
NOTARY PUBLIC, STATE OF _________________________

Commission Number: _________________________________
My Commission Expires:________________________________

[Ground Lessor Consent Signature Page]

WITNESSES:

LESSEE:

HN DBS, LLC

____
Name:____

By: HN REAL ESTATE LLC, a Florida limited liability company, its sole member

____
Name:____

By:____
Name:____
Title:____

STATE OF TENNESSEE :
:
COUNTY OF HAMILTON :

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____, 2021 by ___________________, _________________________, of HN REAL ESTATE LLC, a Florida limited liability company, the sole member of HN DBS, LLC, a Florida limited liability company on behalf of the company, who is personally known to me or has produced ____ as identification.

(NOTARY SEAL)

____
NOTARY SIGNATURE

____
PRINTED NOTARY SIGNATURE
NOTARY PUBLIC, STATE OF ________________________

Commission Number: _______________________________
My Commission Expires:_____________________________

[Lessee Consent Signature Page]

ACCEPTED:

WITNESSES:

LENDER:

FIRST HORIZON BANK

By: ____
Name: ______________________________________
Title: _______________________________________

____
Name:______________________________________

____
Name:______________________________________

[Lender Consent Signature Page]

CITY COUNCIL AGENDA MEMORANDUM
MAY 11, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM:
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Discussion on micro-mobility devices

SYNOPSIS:

At the meeting on April 13th, council directed the City Attorney and staff to make revisions to the proposed Ordinance 2021-02 after the discussion that was held. Attached is a recent article from the Daytona News-Journal that focuses on the City of Daytona Beach and their direction with scooters.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

This is a discussion item.

RECOMMENDATION:

SUGGESTED MOTION:

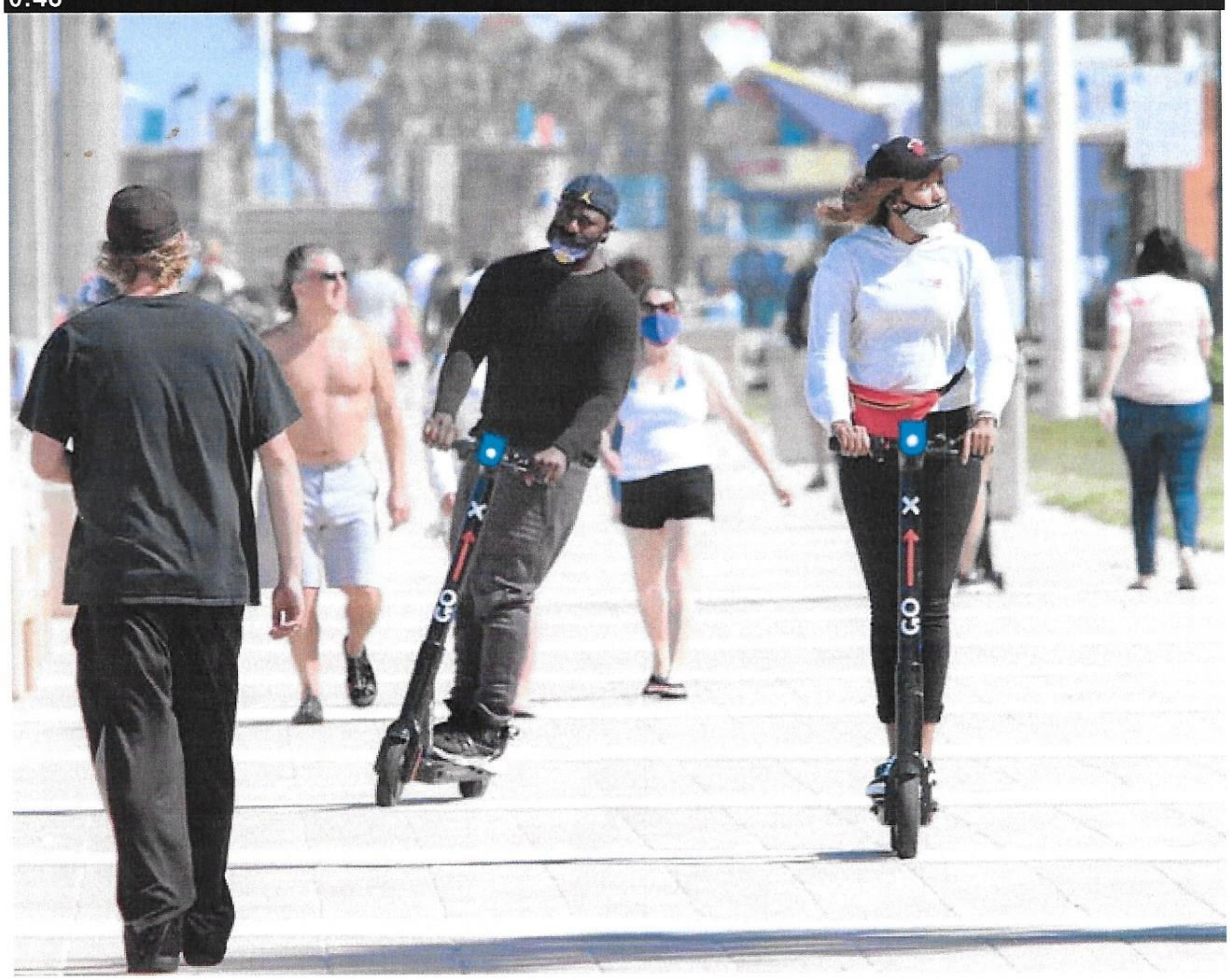
ATTACHMENT:
1. Motor Scooters article on Daytona Beach
2. Ordinance - Micromobility Devices v3-4-22-21
3. Email RE GoX-Staff Meeting-4-15-21

Daytona considers crackdown on electric scooters, and letting a limited number of residents in meetings again

Eileen Zaffiro-Kean
The Daytona Beach News-Journal
View Comments

0:29

0:48



DAYTONA BEACH — Electric scooters could soon be illegal throughout Daytona's beachside and along traffic-heavy corridors.

Or they could even be banned citywide.

City officials have been fielding complaints about the scooters for a year, and compromise measures they've tried don't seem to be eliminating problems.

George St. Pierre, who has run the beachside Jungle George's souvenir shop on the eastern tip of Main Street for more than a decade, told city commissioners at their meeting Wednesday night that scooters are as much of a nuisance as ever.

"My employees and I are getting hit on Main Street on the sidewalk," St. Pierre said. "I've been hit in the shins."

He said several businesses are violating city scooter regulations, as are the people who hop on the electric devices. Ticketing the riders does no good when they're tourists who disappear, he said.

St. Pierre said abandoned scooters are scattered all over the place, thrown down in random spots when the riders have had enough.

"Let's get rid of them," said Mayor Derrick Henry.

City Manager Jim Chisholm said he'll have staff members put together a proposal outlining limitations commissioners could adopt. City Attorney Robert Jagger said commissioners can ban the scooters outright, or designate certain streets or areas of the city where they're illegal.

City Commissioner Dannette Henry argued last year to allow the scooters, saying they had become very popular and tourists loved them. Now she's rethinking that position.

On the beachside, she said she's seen small children riding them in the middle of the road, forcing vehicles to slowly follow them and try not to hit them.

She's also seen scooter riders "fly down the sidewalks."

"They're not following the rules," she said. "They're not where they're supposed to be."

In May of last year, now former City Commissioner Rob Gilliland said he had received a few complaints about electric scooters on the Boardwalk.

“People have just been leaving them around,” Gilliland said last spring.

He said he also received complaints about people going “pretty fast” on the scooters and zipping down sidewalks. The mayor said he had also received complaints.

It’s a problem cities across the nation started dealing with a few years ago with the scooters that can be rented and then just left wherever the last users decides to stop riding. Last year Daytona Beach city officials sent a cease and desist order to a California company that owns the scooters that sprouted locally.

Under current city rules, no one under the age of 16 is allowed to operate a motorized scooter, and it's unlawful for the parent, legal guardian or custodian of a minor child to allow that.

It's unlawful to have more than one person on a scooter, and riders can't exceed 15 mph.

Motorized scooters are only allowed to operate within the designated bike lanes of a roadway, and if no bike lane is available riders can be in roadways with a speed limit of 30 mph or less.

Operation of motorized scooters on sidewalks and walkways is prohibited. The motorized scooters are also prohibited on State Road A1A within the city and on the city's Boardwalk.

The scooters are required to have a kickstand and be parked upright at all times. They're not allowed to be parked in a way that obstructs ingress or egress from any building or parking area, or limits a sidewalk or walkway from maintaining at least four feet of clearance.

All franchised scooter providers are required to maintain commercial general liability insurance coverage with a limit of at least $1 million per occurrence, and with a $2 million aggregate limit.

The scooter providers are also supposed to have commercial automobile liability insurance coverage with a combined single limit of $1 million covering all owned, hired, and non-owned vehicles. The commercial general liability policy should name the city of Daytona Beach as an additional insured.

ORDINANCE 2021-__

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO THE REGULATION OF MICROMOBILITY DEVICES WITHIN THE CITY OF DAYTONA BEACH SHORES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING DEFINITIONS; CREATING A PILOT PROGRAM FOR THE RENTAL OF MICROMOBILITY DEVICES; PROVIDING REQUIREMENTS FOR OBTAINING A PERMIT; PROVIDING REQUIREMENTS FOR EMERGENCY STORAGE; PROVIDING CRITERIA FOR THE CITY TO IMPOUND IMPROPERLY STORED VEHICLES; REQUIRING COMPANIES TO INDEMNIFY THE CITY; PROVIDING INSURANCE REQUIREMENTS FOR COMPANIES ENGAGING IN RENTAL OF MICROMOBILITY DEVICES; REQUIRING RETAILERS TO PROVIDE CERTAIN RECORDS UPON REQUEST OF THE CITY; PROVIDING PENALTIES; MAKING FINDINGS; PROVIDING FOR CONFLICTS, SEVERABILITY; CODIFICATION AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Daytona Beach Shores ("City Council") is the elected collegial body that is the legislative arm of the City of Daytona Beach Shores ("City"); and

WHEREAS, the City Council of the City of Daytona Beach Shores desires to ensure that the City and its environs are safe for drivers and pedestrians alike, including residents of the city and visitors to the city; and

WHEREAS, the City of Daytona Beach Shores has a significant interest in ensuring the public safety and order and in promoting the free flow of pedestrian traffic in city parks, streets, and sidewalks. *Ayres v. City of Chicago*, 125 F. 3d 1010, 1015 (7th Cir. 1997); and

WHEREAS, ~~bicycles and dockless shared mobility devices~~micromobility devices left unattended and parked or leaned on walls or left on sidewalks creates a hazard to pedestrians and individuals needing access and maneuverability for ADA mobility devices; and

WHEREAS, the state of Florida, through the Florida Uniform Traffic Control Law, regulates micromobility devices, but does not prevent municipalities from adopting ordinances governing the operation of micromobility devices. Section 316.2128(1); and

WHEREAS, the City of Daytona Beach Shores may regulate the use and rental of micromobility devices to the extent that such regulations do not conflict with the Florida Uniform Traffic Control Law. *Classy Cycles, Inc. v. Panama City Beach*, 301 So.3d 1046 (1st DCA 2019); and

WHEREAS, the City Council desires to protect the public health, safety, and welfare of the citizens of the City and maintain a high quality of life for the citizens of the City; and

WHEREAS, the City Council hereby finds and determines that the provisions of this Ordinance provide for public benefits and serve public purposes; and

WHEREAS, this ordinance is enacted pursuant to the home rule powers of the City as set forth at Artic le VIII, Section 2, of the *Constitution of the State of Florida*, Chapter 163, *Florida Statutes*, Chapter 166, *Florida Statutes*, and other applicable and controlling law; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA THAT:

SECTION ONE: LEGISLATIVE FINDINGS AND INTENT.

The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance, and finds that same reflect the legislative intent of this Ordinance, and the same are hereby adopted, ratified, and affirmed.

SECTION TWO: ADOPTION.

The City Council of the City of Daytona Beach Shores hereby amends the *Code of Ordinances of the City of Daytona Beach Shores*, Chapter 16, entitled "Offenses-Miscellaneous," Article I, entitled "In General," by creating Section 16-24.2 entitled "Rental or leasing of micromobility devices" as follows:

CHAPTER 16 – OFFENSES-MISCELLANEOUS

ARTICLE I – IN GENERAL

***

Sec. 16-24.2. – Rental or leasing of micromobility devices.

(a) *Definitions* – The following words and phrases, when used in this section shall, for the purpose of this section, have the meanings respectively ascribed to them in this section.

(1) The definitions in section 316.003 of the Florida Statutes apply to this section and are hereby incorporated by reference.

(2) *Company* means a business that owns or operates a fleet of micromobility devices for the purpose of rental to the general public. This may include either a business with a physical location in the city where customers can come to rent micromobility

devices or a business that rents the devices through an app and has no physical presence in the city.

(3) *Director* means the Director of Community Services or any other employee designated by the City Manager for the purpose of administering this section.

(4) *Retailer* means any commercial business, including hotels, other than a company, that is in the business of renting micromobility devices out of a physical building within the city, wherein such rentals are not a primary purpose of the business, and for which rentals of micromobility devices or other motorized or non-motorized vehicles are less than ten (10) percent of the total revenue of the business~~.~~, and which has a signed, ~~,~~ active agreement with a company that holds a valid permit from the city under this section. ~~For the purpose of this section, a hotel is a retailer if it has continuously rented micromobility devices as of March 23, 2021.~~ Retailers must be located in a commercial or hotel zoning district, as applicable.

(b) *Pilot program*. The city hereby establishes a pilot program (the "program") under which companies may operate dock-based or dock-less micromobility device share services by renting in person from a qualified retailer that has a permit from the city. The program will expire on December 31, 2021. During the term of the program, companies shall have a maximum fleet of ~~one hundred (100)~~ ~~twenty (20)~~ one hundred fifty (150) micromobility devices, which shall be equipped with a bell or some other similar device for the rider to warn pedestrians of the rider's presence, and a lighting system for nighttime illumination. The Director retains the right to require companies to reduce their fleet or permit companies to increase ~~-~~their fleet size to no more than two hundred fifty (250) or cease operations as required by public safety or welfare considerations or in the event companies violate the terms of this ordinance or the permit issued hereunder. During the term of the program, a company will designate two local operational staff who will be responsible for fielding complaints, addressing technical difficulties, coordinating the rebalancing and removal of micromobility devices parked illegally, and providing public education.

(c) *Permit required*. Each company ~~or retailer~~ must apply for and receive a permit from the City before commencing micromobility device operations and ~~each retailer must~~ maintain a valid permit during the term of the program. Companies ~~and retailers~~ that already rent micromobility devices within the city as of the effective date of this ordinance have thirty (30) days from the effective date of this ordinance to apply for a permit. Permits may not be assigned or transferred unless approved by the City. Each permit, upon issuance, will be for a maximum of ~~one hundred (100)~~ one hundred fifty (150) micromobility devices for a company, and a maximum of ~~twenty (20)~~ twelve (12) micromobility devices for a retailer. Each permit will be issued to a different company ~~or retailer~~. ~~If one retailer has multiple locations in the city, then a permit is required for each location.~~ The issuance of permits will be processed in the order that complete permit applications are received. Companies shall only deploy and distribute micromobility devices to a retailer subsequent to the issuance of a permit by the City.

(1) *Term of permit.* Unless otherwise revoked or terminated, each permit is valid upon issuance, and will expire at the end of the pilot program. Within ten days after expiration or termination of a permit, a company will remove all its micromobility devices from within the City, and a retailer will immediately cease the storage or staging of micromobility devices.

(2) *Revocation of permit.* The Director may revoke a permit if a company or retailer violates any applicable law or regulation or any condition of the permit. Within seven days of a revocation notice being delivered to a company or retailer, the company or retailer may request a meeting with the Director or assignee. A fair opportunity to be heard shall be provided by the Director or assignee within 21 days of the request for a meeting. After the meeting, the Director may affirm his or her determination, affirm his or her determination with conditions, or rescind his or her determination. The Director's decision shall constitute final agency action.

(3) *Application requirements for a permit.* Applications for a permit must be made on a permit form provided by the Director. The form shall provide the material and documents needed to complete the application and must at a minimum request information necessary to confirm that the retailer meets the requirements of this section and other applicable provisions of City ordinance and state law. The form will also include an agreement to indemnify the City of Daytona Beach Shores against any and all claims, damages, and liability arising from operation of the company except to the extent that said liability, losses, or damages arise from the negligence or willful misconduct of the city. All permits shall be conditioned on the accuracy of and continued compliance with all material aspects of the application.

(4) *Conditions of the permit.* In addition to the requirements of this Chapter, the Director may approve applications for a permit with special regulations and conditions of operation as he or she deems reasonably appropriate to protect the public health, safety, and welfare.

(5) *Application fee.* The initial application for permit for the pilot program must be accompanied by a non-refundable application and licensing fee of $1000.00 to pay for the City's direct costs of administering the program. Should the City continue the program after the term of the pilot program is complete, the application fee shall be set by resolution of the City Council.

(6) *Renewal.* Should the city continue the program after the term of the pilot program, permits may be renewed following the same process, including payment of the application fee, as set by resolution of the City Council.

(7) *Staging.* A retailer may stage, or allow to be stage, a maximum of six (6) micromobility devices outdoors on the property of the retailer during the retailer's

normal business hours, ~~unless the retailer is a hotel as defined in section 2-2, in which case all micromobility devices must be stored indoors~~. Staging may include one (1) associated, free-standing, instructive sign no larger than 24"x36". ~~In no event shall m~~ If a retailer is closed for 36 consecutive hours, no micromobility device~~s~~ or ~~an~~ associated, instructive sign shall be stored or otherwise staged outdoors~~.~~ ~~while the retailer is not open for business~~. Each retailer must monitor and maintain all micromobility devices and associated instructive sign on their property to be upright, orderly, and not encroaching any right-of-way, ~~or~~ required landscape area or other element required by the City's Land Development Code. Companies may not stage or otherwise place micromobility devices inside the city except by providing the micromobility devices to a retailer ~~that holds a valid permit from the city~~ under this section. For the duration of the pilot program, the availability of outdoor staging is allowed as a temporary exception to the prohibition contained in section 14-60.3 of the Land Development Code, provided however, maintenance, cleaning and activities other than staging shall not be visible from public rights-of-way~~.~~

(8) *Conditions of rental*. ~~Retailers~~ Companies may not rent micromobility devices to any person ~~that~~ who does not have a valid driver's license and the company's terms of service shall so state, along with a notice that the renter agrees that the renter is renting the vehicle on his or her own behalf.~~.~~ ~~Retailers~~ Companies must ensure that they provide training for all rentals, to include safety training and instructions to ride in a single file line when riding on sidewalks, including training on alerting pedestrians to the rider's presence. Companies shall also disable or otherwise prevent the use and operation of micromobitily devices at 12 ~~9p~~am until 6 am the following morning. Companies shall inform all users of this requirement during the training and instruction process.

(9) *Waiver/release form.* As part of the permit application process, and prior to issuance of the permit, each retailer and company will submit a waiver/release form to the City for review and approval. The form will provide, in general, that the customer waives any and all claims against the City and releases the City, its elected and appointed officials and employees from any and all liability related to, or arising from, operation of the micromobility device or the program. The retailer or company will require each customer's execution/consent of, and to, the form prior to any customer's use of the retailer or company's micromobility devices. The retailer or company must provide a safety form and training, to include instruction on the requirements of this section, including the prohibition on rental to a person without a valid driver's license. The retailer or company will use ~~of~~ the form as part of every rental of a micromobility device throughout the term of the permit.

(10) ~~The Director shall not issue a permit to any hotel or similar use, as defined in section 2-2, unless the hotel has been operating as a retailer prior to March 23, 2021. Hotels that have been operating prior to March 23, 2021, as a retailer shall be granted a permit as long as the hotel meets all other applicable criteria to the~~

~~extent that the hotel continuously operates as a retailer.~~Companies must provide a complete Daytona Beach Shores retailer list at the time of application and bi-weekly to the Director. This may be provided electronically or in person.

(11) Drop off and return of micromobility devices shall only occur at retailers under this section.

~~(10)~~(12) Penalties. Lease/rental agreements between a company and a retailer shall provide penalty provisions for retailers that do not comply with applicable permit requirements and provisions of this ordinance.

(d) *Emergency storage.* If the president, governor, or any other official or governing body with jurisdiction to make such a declaration declares a hurricane watch or warning, the company shall collect all mircomobility devices that are outdoors and store them in an indoor facility or otherwise remove such devices from the city limits. Retailers shall secure and bring indoors any micromobility devices that are staged or otherwise stored outdoors for the duration of the emergency declaration. Any micromobility devices that are not properly stored in a timely manner may be impounded by the Director of Public Safety or his or her designee, or by a code enforcement officer of the city, and may be redeemed by the company in accordance with paragraph (e).

(e) *Impoundment*. Any micromobility device left unattended on public property, including in parks and rights-of-way of the FDOT, Volusia County, or the City of Daytona Beach Shores, may be impounded by the Director of Public Safety or his or her designee, or by a code enforcement officer of the city. A micromobility device is not considered unattended if it is secured or staged at a retailer in accordance with this section. Upon impoundment by the Director of Public Safety or his or her designee, the company shall pay a $25 fee to the Public Safety Department to retrieve the device, in order to offset the administrative expense of impounding and storing the device. This fee is in addition to any other fee or penalty that may be applied for any underlying violation of any other laws, ordinances, or rules.

(f) *Violation by company.* A violation of any portion of this section is punishable under Section 1-8 of this Code, and may be punished through a citation or a code enforcement action. Additionally, the city may suspend or revoke a permit upon a finding of a violation or violations by the company, regardless of any citations or code enforcement actions that may or may not have been implemented.

(g) *Violation by renter.* Any licensed driver who rents a micromobility device does so on his or her own behalf, and it is a violation for the renter allow another person to use the vehicle during the rental period or to otherwise violate the terms of service agreed to at the time of the rental, and such a violation is punishable by a citation in accordance with section 1-8 of this code.

~~(e)~~(h) *Appeals.* Appeals of citations and code enforcement actions shall be in accordance with chapter 162, Florida Statutes. Appeals of a decision by the city to suspend or revoke a company's permit shall be made to the Special Magistrate, whose decision shall constitute final administrative action by the city.

~~(f)~~(i) *Indemnification*. Companies, b~~B~~y submitting an application for a permit~~, retailers and companies~~ and retailers, by ~~allowing micromobility devices on their properties~~entering into an agreement with a company or companies, agree to indemnify, defend, and hold harmless the city, and its elected and appointed officials, employees, agents, and instrumentalities from any and all liability, losses or damages, including any and all attorneys' fees and costs of defense, which the city and its elected and appointed officials, employees, agents and instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature including, but not limited to, personal injury or wrongful death, property loss or damage, the conditions and features on all streets, sidewalks and sidewalk areas, or other areas within the city on which a micromobility device is operated, to the extent arising out of or in any way connected with the operation of the micromobility device service or use of a micromobility device. Retailers and companies shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the city, where applicable, including administrative, trial, and appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. Retailers and companies shall expressly understand and agree that any insurance protection required by this section, or otherwise provided or secured by a company, will in no way limit the responsibility to indemnify, defend, and hold harmless the city, its elected and appointed officials, employees, agents and instrumentalities as required by this section. The obligation to indemnify, defend, and hold harmless will survive the revocation, cancellation, or expiration of a permit. The companies will acknowledge on the permit, which will include this indemnification in substantially the language provided by this section, that the issuance of the permit, is, in part, conditioned on the granting of this indemnification which is knowingly and voluntarily given by the company. Any agreement between a company and a retailer shall contain language that the retailer acknowledges its indemnification under this paragraph.

~~(g)~~ *Insurance*. The company ~~will procure and keep in full force and effect no less than the insurance coverage required by this section. The insured provisions of the policy or policies must list the city, as well as its elected and appointed officials and employees as additional insureds, and the coverage provisions must provide coverage for any claim, loss or damage related to property or bodily injury, including death, which may arise to any person or property by reason of the program or its operation, or the company's agents, contractors, employees or micromobility device users, or the operation of a micromobility device. The Certificate of Insurance for any insurance policy required by this section must be on file with the City, in a form acceptable to the Director, or his or her designee, prior to the issuance of a permit under this section. Insurance required under this section must include a cancelation provision in which the~~

~~insurance company is required to notify both the company and the Director or his or her designee, in writing not fewer than 30 days before cancelling any insurance policy or before making a reduction in coverage. A company, upon receiving said notice, shall file with the Director, or his or her designee, in a form acceptable to the city, a certificate of insurance for any and all replacement insurance policies prior to the cancelation or reduction of same. The company will maintain the following insurance coverages:~~

~~(1) Commercial general liability with limits of $2,000,000.00 per occurrence, $5,000,000.00 policy aggregate affording coverage for claims resulting from bodily injury (including death) and property damage as described in subsection 2, above. The policy shall be written on a primary and noncontributory basis, and should insure against premises and operations, personal injury, and contingent and contractual exposures.~~

~~(2) Automobile/motorcycle liability affording coverage on all motor vehicles/scooters, if used in connection with the operations or activities contemplated under this article. The company should furnish the city with a policy affording coverage on all owned autos, scooters, and other micromobility devices, including coverage for hired and non-owned auto exposures, with a combined single limit for bodily injury (including death) and property damage of $2,000,000.00 per accident.~~

~~(3) Workers compensation subject to the statutory limits of the State of Florida.~~

~~(h)~~(j) ~~The city retains the right to require additional insurance coverage in connection with the activities performed by the company under this article as may be determined by the city, considering the size of the fleet and other liability insurance related factors. Nothing herein constitutes a waiver of the City's sovereign immunity.~~shall carry insurance as required by the Florida Uniform Traffic Control Law, chapter 316, Florida Statutes.

~~(i)~~(k) *Records*. Upon the written request of the Director, the retailer must provide any requested rental records within three (3) business days.

SECTION THREE: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION FOUR: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION FIVE: CODIFICATION. Section Two of this ordinance shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word. The Code codifier is granted liberal authority to codify the provisions of this Ordinance to be consistent with the other sections of the *Code of Ordinances*.

SECTION SIX: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

____
NANCY MILLER, MAYOR

________________________________ ________________________________
MICHAEL T. BOOKER, CITY MANAGER **CHERI SCHWAB, CITY CLERK**

Approved as to form and legality:

____
JOHN CARY, CITY ATTORNEY

Passed on first reading this ______ day of ________, 2021.

Adopted on second reading this _______ day of _______, 2021.
____

Cruz, Stewart

From:	Cruz, Stewart
Sent:	Thursday, April 15, 2021 2:22 PM
To:	John Cary
Cc:	Hiatt, Fred; Herstein, Gwyn
Subject:	Gen X Micromobility Ordinance Meeting/Concerns

Hi John, Fred and I met with Go X's Khodor Salam, Co-Founder & President of Operations and Jerod Root, Local Operations Manager. The concerns they outlined are below.

1. Staging equipment limitations (Pg 4, #7): Go X is requesting the number of staged micromobility equipment be raised from 6 to 8.
2. Driver's license rental requirement (Pg 5, #8): Go X is requesting eliminating the drivers license rental requirement since the app required to rent the equipment cannot be downloaded by anyone less than 17 years old. This is the way the app is designed. The age is verified by Google and Apple stores through each unique phone ID such as an Apple ID found on Iphones. In practice, if a 13 year old attempts to use her phone to download the app the app will not be visible and therefore unavailable for download due to their age. In addition, when presented with a driver's license verifying whether said ID is valid, suspended, etc is challenging. Go X advised they will create a final transaction page that would have the renter acknowledge that they are 17 years old, that rental of equipment is solely for their use and if found to be in violation of the terms they will be fined by the company.
3. Disabling equipment at 9pm (Pg 5, #8): Go X would like to see this provision omitted as it would severely impact their daily and weekly passes, which are their biggest sellers. In addition, many businesses are open after 9pm and as such night time activity is important to their business.

Finally, Go X also mentioned that they do a lot of community work in other cities and they are open to discussing possible opportunities here in Daytona Beach Shores.

Stewart Cruz, AICP
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