



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COUNCIL MEETING JUNE 22, 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:**
- 6. APPROVAL OF MINUTES**
 - A. City Council Minutes of June 8, 2021
- 7. CONSENT AGENDA:**
 - A. Public Safety May monthly report

B. Community Services May, 2021 Report

C. Building Division May, 2021 Report

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report and Florida League of Cities Bill Summary

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report June 22, 2021

10. OLD BUSINESS:

A. Ordinance 2021-03: Voluntary annexation of unincorporated Volusia County property located at 2924 S. Peninsula Drive

11. NEW BUSINESS:

A. Ordinance 2021-04: Comprehensive Plan Future Land Use Map amendment for annexing single-family residential property located at 2924 S. Peninsula Drive

B. Ordinance 2021-05: Single-family residential rezoning application for annexed property located at 2924 S. Peninsula Drive

C. Resolution 2021-04 to have the city join as a participant in a unified plan regarding the opioid epidemic

D. Auditor Selection Committee

E. RFP Audit Services

F. Economic Development Lease Subsidy Grant Application- Salty Pint, LLC

G. Discussion regarding Mayor Miller participating in a joint task force for multi-city events

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.

MINUTES
CITY COUNCIL MEETING
June 8, 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 Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney Becky Vose, Community Services Director Fred Hiatt, City Planner Stewart Cruz, Finance Director Kurt Swartzlander, Recreation Director Nancy Maddox, 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:

6. APPROVAL OF MINUTES

A. City Council Minutes May 25, 2021

COUNCILMEMBER MICHAEL POLITIS moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to Approve the City Council Minutes of May 25, 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:

A. Forfeiture expenditure request

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to approve the consent agenda.

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

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report

Attorney Becky Vose reviewed the report submitted. She provided an update on the opioid class action lawsuit. The firm in charge of the lawsuit, would like the Council to pass a resolution along with a Memo of Understanding which would govern the allocation of any settlement funds. The council provided consent to bring a resolution to the next meeting.

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report June 8, 2021

City Manager Booker stated that he and staff met with Volusia County staff regarding park maintenance. They are working on a proposal to extend the current agreement with a modification to include the two new parks. Director Hiatt estimated the cost for maintenance would be \$96,000 annually. He informed the council of the upcoming truck event that will occur this weekend. He advised everyone to be prepared for crowded roads and beaches. The next concert will include food trucks on June 25th. Halifax Health Urgent Care is planning a grand opening/ribbon cutting on June 28th, with an open house on July 10th.

10. OLD BUSINESS:

A. Ordinance 2021-06: Temporary Promotional Activity Amendment to allow new businesses to have additional signage at the time of opening.

Mayor Miller explained that this amendment would assist new businesses with advertizing options.

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Adopt Ordinance 2021-06 on second reading.

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

11. NEW BUSINESS:

- A. Ordinance 2021-03: Voluntary annexation of unincorporated Volusia County property located at 2924 S. Peninsula Drive

Property owner Erica Smith was in attendance and spoke to the council. She has homesteaded the property and plans to relocate from Connecticut by the end of summer. She is currently sharing the house with family and friends. She explained that she chose Daytona Beach Shores because of the amenities offered, the location, business friendly and the sound financial status.

COUNCILMEMBER MICHAEL POLITIS moved, seconded by VICE MAYOR MEL LINDAUER to Approve Ordinance 2021-03 on first reading.

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. Ordinance 2021-07: Permitting counseling services as an accessory use to churches in the "P - Public/Quasi Public" Zoning District

City Planner Stewart Cruz explained that city received a request from the church to provide counseling services. Currently, the services are not allowed in the "P" Public zoning district. The proposed change would allow the service as an accessory use and it would only impact the two churches within the city limits. It would be a third-party entity providing the counseling services.

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Approve Ordinance 2021-07 on first reading.

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

- C. Consideration to cancel July 13, 2021 City Council meeting

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to cancel the meeting on July 13, 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

12. COUNCIL COMMENTS:

The entire council expressed their appreciation with the city's progress in attracting new businesses. Mayor Miller reminded the audience that Coffee with the Mayor would be held the next day. The guest speaker will be the Interim Director for Beach Safety.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Krista Goodrich stated that she had spoken to the council months ago regarding opening a brewery/food truck in the shores. She currently has a restaurant on Main Street in Daytona Beach. It appears that her local clientele are afraid to drive through the shores due to the strong police presence and her investment partners have backed out. She is still very interested in the idea and is exploring her options.

Ed Offerman wanted to give shout out to the city staff and City Manager. Everyone is very helpful and polite.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

Resolution from City Attorney on opioid class action lawsuit.

15. ADJOURNMENT:

The meeting ended at 6:35 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB



CITY OF DAYTONA BEACH SHORES

DEPARTMENT OF PUBLIC SAFETY

3050 South Atlantic Avenue

Daytona Beach Shores, Florida 32118

Office of Director of Public Safety

Office 386-763-5333 Fax 386-763-5341

MONTHLY REPORT FOR MAY 2021 *6-8-21*

	May-21	21/YTD	May-20	20/YTD
<i>Police Related Calls</i>	2,679	11,361	2,006	11,552
<i>Fire Related Calls</i>	62	240	62	241
<i>Rescue Related Calls</i>	71	473	71	367
<i>Fire Related Alarms Sounding</i>	7	63	7	67
<i>Traffic Citations</i>	457	926	216	1,031
<i>Written Warnings</i>	24	164	64	233
<i>Building Inspections</i>	17	230	17	133
<i>Arrests: Adults</i>	39	172	40	153
<i>Juveniles</i>	0	2	4	7
<i>City Ordinance Charges</i>	0	0	0	0
<i>Florida State Statute Charges</i>	52	289	83	242
<i>Accidents: Total</i>	14	94	30	66
<i>Street/Highway</i>	3	38	14	41
<i>Parking Lot</i>	11	56	16	42

Stephan Dembinsky Public Safety Director

DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY

MAY 2021 STATISTICS

FIRE CALLS	CURRENT MONTH			YEAR TO DATE			PRIOR YEAR		
ENGINE RESPONSE	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID
STRUCTURE FIRES	0	0	0	1	0	1	2	0	0
HAZARDOUS CONDITIONS	2	1	0	16	3	0	7	3	0
VEHICLE FIRES	0	1	0	1	1	0	0	0	0
BOAT FIRES	0	0	0	0	0	0	0	0	0
OTHER FIRES NOT LISTED	2	0	0	7	1	0	3	1	0
VEHICLE CRASHES W/ENGINE RESPONSE	1	0	1	5	2	2	2	1	0
SERVICE CALLS	24	2	0	125	7	2	122	18	0
FIRE ALARMS	15	0	0	70	2	0	53	2	0
CANCELLED EN ROUTE	5	1	4	24	10	14	38	18	12
TOTALS	49	5	5	249	26	19	227	43	12

CURRENT MONTH ESTIMATED FIRE DAMAGES

CITY: \$0
COUNTY: \$0
MUTUAL AID: \$0

INSPECTIONS	CURRENT MONTH		YEAR TO DATE		PRIOR YEAR	
	INITIAL	FOLLOW-UP	INITIAL	FOLLOW-UP	INITIAL	FOLLOW-UP
HIGH RISE	11	7	26	35	11	17
HOTEL/MOTEL	2	9	21	16	10	13
ASSEMBLY	0	1	2	1	2	0
MERCANTILE	0	0	19	3	5	4
RESTAURANT	1	1	9	1	4	2
BUSINESS	5	0	56	3	7	0
OTHER	2	0	12	0	17	0
CONSTRUCTION	8	3	30	5	31	4
OCCUPATIONAL LICENSES	0	0	0	0	0	0
APARTMENTS/CONDO	0	0	15	7	6	0
TOTALS	29	21	190	71	93	40

PLANS EXAMINATION HOURS: 0 HRS

DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY

MAY 2021 STATISTICS

EMS CALLS	CURRENT MONTH			YEAR TO DATE			PRIOR YEAR		
	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID
ALS CALLS	43	9	0	190	26	5	185	49	2
BLS CALLS	56	10	0	150	23	8	116	40	7
TOTALS	99	19	0	340	49	13	301	89	9

POLICE CALLS TOTALS BY TYPE

DB SHORES POLICE

DATES: 2021-05-01 through 2021-05-31

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
TRAFFIC STOP	TS	557	20.79 %	17.97
MISCELLANEOUS LE CALL	MISC	499	18.63 %	16.10
PROPERTY CHECK	PRC	403	15.04 %	13.00
EXTRA PATROL	EP	382	14.26 %	12.32
SUSP PERSON	SPER	61	2.28 %	1.97
TELEPHONE HANDLE	THC	51	1.90 %	1.65
SUSP INCIDENT	SINC	45	1.68 %	1.45
MEDICAL EMERGENCY	MED1	40	1.49 %	1.29
DIRECTED PATROL REQUEST	DPR	37	1.38 %	1.19
SUSP VEHICLE	SVEH	35	1.31 %	1.13
DISTURBANCE	DIST	32	1.19 %	1.03
MVA	MV	30	1.12 %	0.97
TRESPASSERS	TRES	27	1.01 %	0.87
FLAG DOWN	FLAG	24	0.90 %	0.77
911 CK/OPEN LINE	911CK	22	0.82 %	0.71
RADAR	RADAR	21	0.78 %	0.68
FIRE ALARM	ALARMF	19	0.71 %	0.61
ZONE ACCOUNTABILITY PATR	ZAP	18	0.67 %	0.58
TOWED VEHICLE	TOW	16	0.60 %	0.52
INVESTIGATION	INV	15	0.56 %	0.48
WALKUP	WALKUP	15	0.56 %	0.48
CIVIL COMPLAINT	CIVIL	13	0.49 %	0.42
WELL BEING CHECK	WBC	13	0.49 %	0.42
ELEVATOR CALL	ELEV	12	0.45 %	0.39
WARRANT	WAR	12	0.45 %	0.39
DISABLED VEHICLE	DAV	11	0.41 %	0.35
RECKLESS DRIVER	RD	11	0.41 %	0.35
MEDICAL NON-EMERG	MED2	10	0.37 %	0.32
NARCOTICS	NARC	10	0.37 %	0.32
SUSPECT STOP	SS	10	0.37 %	0.32
THEFT	THEFT	10	0.37 %	0.32
FALL- NON EMERGENCY	TRAU3	9	0.34 %	0.29
NOISE	NOISE	9	0.34 %	0.29
ASSAULT/BATTERY	ABAT	8	0.30 %	0.26
DOMESTIC DISTURBANCE	DV	8	0.30 %	0.26
DRUNK DRIVER	DUI	8	0.30 %	0.26
HIT&RUN MVA	MVHR	8	0.30 %	0.26
ILLEGAL PARKING	PARK	8	0.30 %	0.26
FIGHT	FIGHT	7	0.26 %	0.23
TRAUMA EMERGENCY	TRAU1	7	0.26 %	0.23
BUSINESS ALARM	ALARMB	6	0.22 %	0.19
MENTALLY ILL PER	MIP	6	0.22 %	0.19
VANDALISM	VAND	6	0.22 %	0.19
ANIMAL COMPLAINT	AC	5	0.19 %	0.16
DRUNK PERSON	IP	5	0.19 %	0.16
UNCONSCIOUS	UNC	5	0.19 %	0.16

POLICE CALLS TOTALS BY TYPE

DB SHORES POLICE

DATES: 2021-05-01 through 2021-05-31

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
911 CK/OPN LINE/MED HAZ	911MED	4	0.15 %	0.13
FRAUD	FRAUD	4	0.15 %	0.13
INFORMATION GIVEN	INFO	4	0.15 %	0.13
MEDICAL UNKNOWN	ALARMM	4	0.15 %	0.13
ROAD OBSTRUCTION	RDOB	4	0.15 %	0.13
STROKE / CVA	CVA	4	0.15 %	0.13
SUICIDAL PERSON	SP	4	0.15 %	0.13
TRAUMA CRITICAL	TRAUE	4	0.15 %	0.13
ATT TO CONTACT	ATC	3	0.11 %	0.10
FIREWORKS	FIREWK	3	0.11 %	0.10
JUVENILE	JUV	3	0.11 %	0.10
MVA W/ INJURIES	MVI	3	0.11 %	0.10
SHOPLIFTING	SHOP1	3	0.11 %	0.10
STEP ZONE	STP	3	0.11 %	0.10
STOLEN VEHICLE	SV	3	0.11 %	0.10
TRAUMA NON EMERG	TRAU	3	0.11 %	0.10
WELL BEING CHECK MEDICAL	WBCF	3	0.11 %	0.10
ASSIST AGENCY	ASSIST	2	0.07 %	0.06
BOLO	BOLO	2	0.07 %	0.06
BURGLARY	BURG	2	0.07 %	0.06
CITY ORDINANCE VIOLATION	COV	2	0.07 %	0.06
ESCORT	ESCORT	2	0.07 %	0.06
FIRE OUTSIDE STRUCTURE	FOS	2	0.07 %	0.06
FIRST AID CALL	FAID	2	0.07 %	0.06
FOUND PROPERTY	PROPF	2	0.07 %	0.06
LOST CHILD	CHLDL	2	0.07 %	0.06
PANIC ALARM	ALARMF	2	0.07 %	0.06
SEX OFFENSE	SO	2	0.07 %	0.06
SMOKE IN STR COMM/HIRISE	SMISCH	2	0.07 %	0.06
SPECIAL DETAIL	SDL	2	0.07 %	0.06
THREATENING CALL	TCALL	2	0.07 %	0.06
TRAFFIC LITE OUT	TLO	2	0.07 %	0.06
ABANDONED VEH	AV	1	0.04 %	0.03
ABUSE	ABUSE	1	0.04 %	0.03
AIRCRAFT EMERGENCY	AEMER	1	0.04 %	0.03
BURG/RESO	BURGR	1	0.04 %	0.03
DEAD PERSON	DEAD	1	0.04 %	0.03
DROWNING	DROWN	1	0.04 %	0.03
FINGERPRINTS	PRINTS	1	0.04 %	0.03
FOUND CHILD	CHILDF	1	0.04 %	0.03
HOLD UP ALARM	ALARMH	1	0.04 %	0.03
MISC FIRE SERVICE CALL	MISCF	1	0.04 %	0.03
MISSING PERSON	MP	1	0.04 %	0.03
MISSING PERSON RECOVERED	MPR	1	0.04 %	0.03
OPEN DOOR	OPD	1	0.04 %	0.03
REPOSSESSED VEH	REPO	1	0.04 %	0.03

POLICE CALLS TOTALS BY TYPE

DB SHORES POLICE

DATES: 2021-05-01 through 2021-05-31

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
SEIZURES	SEIZ	1	0.04 %	0.03
SEX OFFENSE HIGH PRI	SO1	1	0.04 %	0.03
SMOKE IN STRUCTURE	SMIS	1	0.04 %	0.03
SMOKE ODOR IN STRUCTURE	SMODIS	1	0.04 %	0.03
STR ARM ROBBERY	SROB	1	0.04 %	0.03
TEST LE CALL	TEST	1	0.04 %	0.03
TRAFFIC CONTROL	TC	1	0.04 %	0.03
VEH FIRE	VF	1	0.04 %	0.03
VIOLATION OF PROBATION	VOP	1	0.04 %	0.03
WALK & TALK	WT	1	0.04 %	0.03
TOTAL CALLS:		2,679	100.00%	86.42

NOTE: CAD-generated statistical reports are compiled from a live database of calls for service; this live database requires frequent call updating to ensure real time data is correct and maintained. When compiling and comparing statistics over time, minor discrepancies are inherent and should be expected. For final report information on crime, Uniformed Crime Reporting (UCR) statistics should be utilized.



CITY OF DAYTONA BEACH SHORES
DEPARTMENT OF PUBLIC SAFETY
3050 South Atlantic Avenue
Daytona Beach Shores, Florida 32118
Office of Director of Public Safety
Office 386-763-5333 Fax 386-763-5341

MONTHLY REPORT FOR MAY 2021

Vehicle Maintenance Division: 2 Positions Assigned: Conducted routine, scheduled maintenance checks and repairs on all city vehicles (includes oil changes and tire exchanges). Additional items were:

Replace wiper blades	veh #147
Replace wiper blades	veh #156
Replace resistor	veh #111
Replace front brakes	veh #112
Replace wiper blades	veh #112
Replace battery	veh #162
Replace wiper blades	veh #154
Repair roof vent	Motorcycle trailer
Mount cargo box	veh #174



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DEPARTMENT OF PUBLIC SAFETY
3050 South Atlantic Avenue
Daytona Beach Shores, Florida 32118
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TRAINING SEMINARS ATTENDED

Month of May

*Zach Rooney
Dan Carrazana*

5/12

*Taser Instructor
Palm Springs*

Norman Medders

5/24-28

*Private Fire Protection
System – POFD*

COMMUNITY SERVICES DEPARTMENT

MONTHLY REPORT - MAY 2021

FACILITIES MAINTENANCE DIVISION:

Currently one position.

Normal monthly duties:

This division assesses any problems reported with the buildings and handles the repair if it is within his ability. He has an a/c certification so he can do a lot of the repairs inhouse. He replaces light bulbs, cleans the outside windows, paints and any other general maintenance needed with the city buildings and city owned properties.

Additionally, this month:

This employee had some AC repairs at the community center, city hall and public safety as well as pulling out old gutter pins and filling in all the holes with stucco. He also is handling getting quotes and information regarding a new card reader post and cabinet for public safety.

PARKS/STREETS DIVISION:

This division is normally eleven maintenance positions and one electrician position.

Normal monthly duties:

This division takes care of the maintenance, upkeep and general appearance of all the parks, streets, sidewalks and medians daily. They mow, change out lights, restock supplies, replace plants as needed, replace or repair street signs, check and clear the storm drains, as well as any other issues that may arise in the city. Although there are two divisions, they now all share in the normal monthly duties.

Additionally, this month:

The park/streets division continued refreshing the different parks and city buildings, they cleaned up, replaced rock areas and flags in the court of flags and veterans park area. They also had more irrigation repairs, on Oceans West Boulevard and Florida Shores.

The electrician repaired 14, 40ft light poles, replaced timers on light panels and on the pavilion lights and worked on getting information and needs for a lighting project in the public safety building area. He also handled 30 electrical line locates.

SEWER DIVISION:

Currently four positions.

Normal monthly duties:

This division maintains and checks all the sewer stations daily, they do all the general maintenance of the sewer stations, generators and the property the stations are located on. This includes mowing and general outside maintenance as well as cleaning the pump areas, wet wells and floats. The division also maintains and inspects the manholes in the city, delivers past due sewer bill notices for finance every month, does cooling tower readings and grease trap inspections quarterly and has two employees in the division that are animal control officers.

Additionally, this month:

The division has begun line cleaning and tv'ing in different station areas. They finished up around station 2 and started in the area of station 3. They rebuilt a check valve at the master station, handled repairs to the camera on the TV trailer, replaced the manhole ring and cover by station 7 and raised and replaced the manhole ring and cover in front of Sherwin Williams. They installed a new dialer at station 2, had the meters calibrated at station 1 and the master station as well as handling 6 animal control calls and 43 sewer line locates.

City of Daytona Beach Shores

Planning & Building Division Statistics

Monthly Report – May, 2021

Planning Division

Site Plans - Submittals and Approvals:

Submitted this Month: 1
 Submitted this Fiscal Year: 4
 Approved by Staff this Month: 1
 Approved by Staff this Fiscal Year: 2
 Approved by City Council this Month: 0
 Approved by City Council this Fiscal Year: 0
 Amendments Approved by Staff this Fiscal Year: 0

Building Division

Specific Large Projects (Over \$10,000) - Submitted This Month:

PROJECT	WORK ADDRESS	DATE	WORK DESCRIPTION	VALUE	REVENUE
CVK Investments Inc.	2615 South Atlantic Avenue, Unit 4G	5/5	Install new cabinets in kitchen and master bathroom	\$40,000.00	\$295.20
Oceans Seven Condo	2947 South Atlantic Avenue	5/6	New circuit for mini split A/C, replace disconnects	\$22,850.00	\$47.50
Earls Residence	3052 Esperanza Avenue	5/6	Reroof primary residence and detached garage	\$22,000.00	\$193.73
Christopherson Residence	3043 South Atlantic Avenue, Unit 1506	5/6	Remodel kitchen and bath, new cabinets, and tops	\$28,000.00	\$226.94
Oceans Atrium Condo	3023 South Atlantic Avenue	5/10	Replace framing and drywall ceiling, misc. patching	\$14,300.00	\$154.75
Ladd Residence	1 Oceans West Boulevard, Unit 14B5	5/10	Remodel kitchen and two bathrooms	\$17,500.00	\$172.20
Burgio Residence	3003 South Atlantic Avenue, Unit 14A2	5/11	Replace 2 sliding glass doors	\$28,699.00	\$230.86
Payne Residence	2937 South Atlantic Avenue, Unit 802	5/11	Remodel kitchen, master bath, guest bath	\$55,000.00	\$380.53
SW Realty Rentals LLC	2301 South Atlantic Avenue, Unit 333	5/12	Replace cabinets in kitchen and bathroom, create closet	\$15,300.00	\$161.50
Peck Plaza Condo	2625 South Atlantic Avenue	5/13	Replace pump controller with transfer switch	\$29,915.00	\$228.48
Budhu Residence	2625 South Atlantic Avenue, Unit 25SW	5/13	Remodel kitchen and 2 bathrooms	\$19,500.00	\$182.96

PROJECT	WORK ADDRESS	DATE	WORK DESCRIPTION	VALUE	REVENUE
Buonincontro Residence	2625 South Atlantic Avenue, Unit 11SW	5/13	Remodel kitchen and bathrooms	\$22,500.00	\$199.11
Shmakova Residence	2938 Sea Oats Circle	5/14	Replace drywall, cabinets, tops, and island	\$20,200.00	\$188.34
Cook Residence	3851 South Atlantic Avenue, Unit 601	5/14	Remove cabinets and drywall to expose wiring and plumbing	\$15,000.00	\$154.75
Tropical Manor	2237 South Atlantic Avenue	5/17	Miscellaneous concrete repairs	\$20,000.00	\$182.96
Rich Residence	3023 South Atlantic Avenue, Unit 1103	5/18	Replace 3 sliding glass doors and 2 windows	\$20,178.00	\$188.34
Corso Residence	2545 South Atlantic Avenue, Unit PH4	5/20	New kitchen countertops, bathroom vanities	\$14,574.00	\$153.25
Enloe Residence	3145 South Atlantic Avenue, Unit 203	5/20	Install 3 motorized hurricane shutters	\$10,629.00	\$120.55
Gianneschi Residence	2967 South Atlantic Avenue, Unit 1502	5/20	Install 3 motorized hurricane shutters	\$13,357.00	\$146.20
Holiday Inn Express	3301 South Atlantic Avenue	5/24	Replace (2) straight cool split systems	\$14,023.00	\$136.90
Oceans One Condo	3051 South Atlantic Avenue	5/24	Replace existing fire backflow preventer	\$15,603.00	\$192.50
Shores Resort and Spa	2637 South Atlantic Avenue	5/25	Install duplex domestic water booster pump	\$47,500.00	\$76.00
Harvey Residence	125 Esmeralda Avenue	5/25	Bring kitchen to code, new cabinets, and tops	\$22,000.00	\$482.73
Genovese LLC	116 Dunlawton Boulevard	5/27	Remodel bathroom for ADA compliance	\$15,667.00	\$191.50
TOTALS	WORK ADDRESS	DATE	WORK DESCRIPTION	\$544,295.00	\$4,687.78

Building Division Revenue by Permit Category:

PERMIT TYPE	MAY 2021	FISCAL YEAR-TO-DATE 2020 TO 2021	MAY 2020	LAST FISCAL YEAR-TO-DATE 2019 TO 2020
BUILDING	\$9,278.30	\$138,354.28	\$8,188.11	\$100,531.98
ROOF	\$310.48	\$14,393.65	\$3,035.15	\$11,659.90
DEMOLITION	\$0.00	\$563.90	\$0.00	\$240.00
ELECTRICAL	\$1,913.75	\$20,420.31	\$1,770.64	\$17,527.48
MECHANICAL	\$3,989.80	\$31,055.40	\$2,853.69	\$17,202.85
PLUMBING	\$2,988.25	\$30,259.31	\$1,361.75	\$17,809.17
SIGN	\$348.00	\$2,096.00	\$54.50	\$1,750.56
POLITICAL SIGN BONDS	\$0.00	\$220.00	\$0.00	\$220.00
STORMWATER MANAGEMENT	\$0.00	\$0.00	\$0.00	\$0.00

MISCELLANEOUS	\$0.00	\$786.50	\$230.50	\$2,480.50
DEVELOPMENT FEES	\$345.00	\$1,805.00	\$220.00	\$3,302.90
PROMOTIONAL ACTIVITIES	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$19,173.58	\$239,954.35	\$17,714.34	\$172,725.34

Building Division Activities:

ACTIVITY	MAY 2021	FISCAL YEAR-TO- DATE 2020 TO 2021	MAY 2020	LAST FISCAL YEAR-TO- DATE 2019 TO 2020
INSPECTIONS	283	2470	197	1873
FINAL CERTIFICATES OF OCCUPANCY ISSUED	0	1	0	2
TEMPORARY CERTIFICATES OF OCCUPANCY ISSUED	0	2	0	0
FINAL INSPECTIONS	162	1476	82	1053
FAILED INSPECTIONS	23	186	4	109

Annual Totals, Large Projects (Over \$10,000):

Projects Begun Current Fiscal Year-to-Date – 2020 to Present: \$42,412,867.00

Projects Begun Last Fiscal Year – 2019 to 2020: \$39,968,375.00

Projects Begun Two Fiscal Years Ago – 2018 to 2019: \$24,944,320.00



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
JUNE 22, 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: June 16, 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 June 8, 2021. Please advise if you have any questions, comments or concerns relative to these matters.

(1) Ordinance Review

Reviewed and approved as to form and legal sufficiency ordinances relating to comp plan and zoning.

(2) Code Enforcement

Met with the Community Services Director, Building Official staff, and Code Enforcement for a strategy session regarding how to move forward to improve certain properties in the city.

(3) 2021 Legislative Session

Completed a review of bills passed during the 2021 legislative session, for presentation at the June 22, 2021, City Council meeting.

(4) Special Exception for El Caribe

Provided a legal review for a Special Exception for El Caribe relating to off-site parking.

(5) *Opioid Litigation*

Coordinated with the County Attorney's office regarding coordination of the opioid lawsuit. Drafted a Resolution for approving an MOU to be joined by other County jurisdictions.

(6) *Truck Event*

Rendered legal advice as to possible remedies of the city regarding problems spilling over into Daytona Beach Shores resulting from the Truck event in Daytona Beach at the Speedway.

(7) *Legal Advice*

Provided legal advice as to interpretation

Respectfully, submitted,

/s/ Becky Vose, City Attorney

FLC 2021 Legislative Final Report

Bills that Passed (in alphabetical order by subject area)

Building Codes/Construction

Application for and Issuance of Building Permits (Neutral)

CS/CS/HB 1059 (Robinson) requires local governments to review additional information for an application for a development permit or development order within specified timeframes. It requires local governments to post certain building permit information on their websites, including the following: each type of application and required documentation; procedures for processing, reviewing and approving applications; and the status of each application. It requires local governments to provide for electronic submission of all parts of the application and payments. The bill requires a local government that fails to meet established deadlines for reviewing building permit applications to reduce the fee for such permits for every business day that it misses the deadline. It provides that if a local government denies an application for a single-family residential dwelling, it must allow the applicant ten business days to correct the application. It prohibits a local government from requiring an applicant to provide a copy of a contractor's contract with owners, subcontractors, or suppliers as a condition of application for a building permit for commercial property. Effective October 1, 2021. (Taggart)

Building Inspections (Neutral)

CS/CS/HB 667 (Mooney) requires local building enforcement agencies to allow requests for inspections to be submitted electronically, such as by E-mail, electronic fill-in form, or downloaded application. A local enforcement agency must refund 10 percent of the permit and inspection fees if the inspector or building official determines the work fails an inspection but fails to provide, within five days, a reason that is based on compliance with state or local requirements, indicating why the work failed the inspection. In addition, the bill clarifies that a governmental entity may perform virtual inspections at its discretion but that it may not perform virtual inspections for structural inspections on threshold buildings. Effective July 1, 2021. (Taggart)

Florida Building Code (Neutral)

CS/CS/HB 401 (Fetterhoff) allows for substantially affected people to submit a petition to the Florida Building Commission for a nonbinding advisory opinion if a local government adopts a regulation or policy without following the process established in the Florida Building Code. The bill defines a "substantially affected person" and the process for submitting the petition. The bill defines the process for how the Commission must consider petitions, the length of time before the Commission must issue its nonbinding advisory opinion and where the opinion must be published. The bill allows for the Commission to make changes to the Florida Building Code to correct errors but only with a 75% vote of the Commission. A local government may not require a contract between a builder and an owner for the issuance of a building permit or as a requirement for the submission of a building permit application. The bill also prohibits local governments from regulating specific building design elements for single-family and two-family dwellings. These provisions include several exemptions: dwellings on the National Register of Historic Places or within a historic district, regulations adopted to implement the NFIP, dwellings within a CRA, regulations to ensure protection of coastal wildlife, dwellings within a planned unit development or master planned community, and dwellings located within a local government that has a design review or architectural review board. Effective July 1, 2021. (Taggart)

Public Works Projects (Oppose – Preemption)

CS/CS/CS/HB 53 (DiCeglie) requires local governments to utilize competitive bidding processes when contracting city, town or county public works projects. The bill defines a public works project to be any activity that exceeds \$1 million in value and is paid for with state-appropriated funds. The requirements do not apply to any project 100% funded by local funds. The bill also blocks a local government from training employees in designated programs with a restricted curriculum or from a single source and local ordinances that require programs such as apprenticeships. Effective July 1, 2021. (Taggart)

Emergency Management

Emergency Powers of a Local Government (Opposed)

CS/CS/SB 2006 (Burgess) is a comprehensive bill that amends the State Emergency Management Act to address the threat posed by pandemics or other public health emergencies and imposes restrictions on the scope, duration and impact of local government emergency orders.

The bill defines a local government “significant emergency order” as an order or ordinance issued or enacted by a political subdivision (city or county) in response to an emergency that limits the rights or liberties of individuals or businesses within the political subdivision. The bill specifically excludes hurricane or other weather-related orders from the definition of significant emergency order-which leaves all other types of emergencies or disasters subject to the restrictions and parameters of the bill.

The bill requires that any significant emergency order issued by a local government must be narrowly tailored to serve a compelling public health or safety purpose; must be limited in duration, applicability, and scope to reduce any infringement on individual liberty to the greatest extent possible. Under the provisions of the bill, a significant emergency order automatically expires seven days after issuance and may be extended, as necessary, in seven-day increments but only for a **total** duration of 42 days. If a significant emergency order expires, the local government cannot issue a “substantially similar” order. If the governor determines that a significant emergency order unnecessarily restricts an individuals’ rights or liberties, the governor can invalidate the order adopted by the local government. Additionally, the bill provides that an order issued by a local government that imposes a curfew restricting travel or movement must allow persons to travel to their places of employment and to return to their residences after their work has concluded. CS/CS/SB 2006 also requires all emergency orders issued by local governments to be posted to a dedicated website accessible through a conspicuous link on the local government’s webpage.

Any state agency or political subdivision that accepts assistance in aid of for the purpose of emergency prevention, management, mitigation, preparedness, response, or recovery must submit to the Legislature, in advance, a detailed spending plan for the money. When this pre-submission of the agency’s plan is not possible, a state agency or political subdivision must nonetheless submit the plan no later than 30 days after the initiation of any expenditures and for each additional 30 day of the emergency as long as funds continue to be disbursed. For emergency response activities, including emergency response that includes emergency protective measures or debris removal, the bill requires the agency or political subdivision must submit to the Legislature a report of all expenditures in aggregate categories incurred in the emergency response no later than 30 days after the expenditure is incurred. The entity must also submit a copy of any project worksheet submitted to FEMA within 7 days of when the document is submitted to FEMA. The bill also prohibits governmental entities and private businesses from requiring proof of vaccination and imposes fines of up to \$5,000 per incident for any violation. Effective July 1, 2021. Chapter No. 2021-008. (Dudley)

Ethics and Elections

Campaign Financing (Opposed)

CS/CS/SB 1890 (Rodrigues) imposes a \$3,000 limit on contributions made to political committees sponsoring or opposing a constitutional amendment proposed by initiative. The limit will not apply once the Secretary of State has issued a certificate of ballot position and a designating number for a proposed constitutional amendment. In addition, the bill preempts local governments from enacting or adopting any limitation or restriction involving campaign or committee contributions and expenditures or establishing contribution limits different from those established in the Florida Election Code. Lastly, the bill amends current law provisions relating to the distribution of surplus funds by candidates. Effective July 1, 2021. Chapter No. 2021-16. (O'Hara)

Election Administration (Neutral)

CS/CS/CS/SB 90 (Baxley) revises multiple provisions of the Florida Elections Code relating to voter registration, third-party voter registration, county commission terms, ballots, voting systems, vote-by-mail ballots, canvassing boards, voter signatures and secure drop boxes. It provides that in any civil action in which a state or county agency or officer is a party, the action may not be settled if the settlement conflicts with any provision of the Florida Election Code unless notification is given to the legislature and the Attorney General of the commencement of settlement negotiations, a proposed settlement is reported to the legislature and the Attorney General, and notice is given to the legislature and the Attorney General at least ten days before the settlement becomes final. The bill prohibits the use of private funds for election-related expenses, voter education, voter outreach, or registration programs. The donation and acceptance of space to be used as a polling room or an early voting site is exempted from this prohibition. The bill requires supervisors of elections to make live voter turnout data available on their websites on election day. It eliminates current law provisions addressing elective charter county or municipal office vacancies created by resignation and provides such offices shall be deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation. For persons seeking to qualify for office as a candidate of any political party, the bill requires such person to state in writing that he or she has been a member of that political party for 365 days before the beginning of qualification. If a person is seeking to qualify as a candidate with no party affiliation, the bill requires the person to state in writing that he or she has not been a member of any political party for 365 days before the beginning of the qualifying period. The bill expands the current no-solicitation zone from 100 to 150 feet and includes drop box locations as areas subject to the no-solicitation zone. It modifies the current law definition of solicitation to include engaging in any activity with the intent to influence or having the effect of influencing a voter, and clarifies the term may not be construed to prohibit an employee of, or a volunteer with, the supervisor of elections from providing nonpartisan assistance to voters within the no-solicitation zone. The bill modifies current law provisions relating to the canvassing of returns and the public inspection of ballots. It amends vote-by-mail procedures and provides that a vote-by-mail request covers only a two-year election cycle rather than four years. An existing vote-by-mail request submitted before July 1, 2021, is effective for elections held through the end of the 2022 calendar year. In addition, except as authorized for voters having a disability, overseas voters, or local referenda, the bill prohibits a county, municipality, or state agency from sending a vote-by-mail ballot to a voter unless the voter has requested a ballot. The bill amends provisions relating to the use of drop boxes for vote-by-mail ballots. It clarifies that drop boxes may be

placed at the main supervisor of elections office, each permanent branch of such office, and at each early voting site. It requires that drop boxes be located to provide all voters in the county with an equal opportunity to cast a ballot. Drop boxes located at early voting sites may be used only during early voting hours and must be monitored in-person by an employee of the supervisor of elections. It provides that drop boxes at early voting locations may be used only during early voting hours and must be monitored in-person. Effective upon becoming law (May 6, 2021). Chapter No. 2021-11. (O'Hara)

Finance and Taxation

Constitutional Amendment: Property Assessed for Elevated Properties (Neutral)

HJR 1377 (Chaney) proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit the consideration of improvements made to residential real property to improve the property's resistance to flood damage when determining the assessed value of the property for the purposes of ad valorem taxation. If approved by at least 60% of electors on the November 2021 general election ballot, the constitutional amendment will take effect January 1, 2023. (Hughes)

Homestead Exemption for Seniors 65 and Older (Neutral)

CS/CS/HB 597 (Woodson) amends the process by which a senior verifies his or her income for purposes of renewing the income-based property tax exemption. Currently, seniors receiving such an exemption must annually submit to the property appraiser a sworn statement that his or her income still qualifies for the exemption. The bill removes this requirement and instead requires the senior only to notify the property appraiser upon a change in income that may disqualify the senior for the exemption. Effective July 1, 2021. (Hughes)

Petition for Objections to Assessment (Neutral)

CS/HB 649 (Fernandez-Barquin) authorizes a condominium or cooperative association to defend its members that are unit or parcel owners in ad valorem tax suits brought by a property appraiser after a VAB decision and to appeal such decisions on the owners' behalf. The bill requires an association to notify, in a specified manner, its members of its intention to petition the VAB and that, by not opting out of the petition, the owner agrees that the association may represent him or her in any subsequent proceedings. Effective July 1, 2021. (Hughes)

Sales and Use Tax (Supported)

CS/CS/SB 50 (Gruters) requires retailers with no physical presence in Florida to collect Florida's sales tax on sales of taxable items delivered to purchasers in Florida if the retailer makes a substantial number of sales into Florida or provides for the taxation of sales facilitated through a marketplace provider. The bill also deletes a provision that exempts an out-of-state dealer that makes retail sales into Florida from collecting and remitting any local option surtax. The bill temporarily diverts the increased collections in sales tax, due to this bill, to the Unemployment Compensation Trust Fund until it is replenished to pre-pandemic levels. The bill reduces the business rent tax from 5.5% to 2% once the Trust Fund reaches its pre-pandemic balance. Effective July 1, 2021, except as otherwise provided. Chapter No. 2021-002. (Hughes)

Taxation (Neutral)

HB 7061 (Ways and Means) is the tax packages for the 2021 Session. The bill includes a back-to-school, disaster preparedness and a "recreation" sales tax holiday. The bill expands the current property tax discount from 50% to 100% for certain multifamily projects that provide affordable housing for low-

income families. Other property tax changes in the bill include clarifying the application of an exemption from ad valorem taxation for portions of property used for charitable, religious, scientific or literary purposes; requiring the tax collector to accept late payments on the first installment of prepaid property taxes; and repealing the hospital community benefit reporting and creating two additional situations when a change in the ownership of homestead property would not result in the property being reassessed at just value. The bill also clarifies that when a property is damaged or destroyed by a calamity, ancillary improvements may also be repaired or replaced without the improvement being assessed at just value and that the assessment made for repaired or replaced property must be calculated based on the assessed value as of the January 1 immediately before the damage or destruction occurred. The bill also makes a number of updates related to tax administration. The bill also implements HJR 1377 if approved by 60% of voters at the next general election meaning that changes to elevate certain homestead and non-homestead residential property do not increase the assessed value of the property under specific circumstances. Effective July 1, 2021. (Hughes)

Land Use and Comprehensive Planning

Governmental Actions Affecting Private Property Rights (Opposed)

CS/CS/HB 421 (Tuck) makes various changes to the Bert J. Harris, Jr., Private Property Rights Protection Act to favor private property owners. It expands the definition of real property to include any legal interest in land, including surface, subsurface, and mineral estates. The bill shortens the review period governments have for responding to claims from 150 to 90 days. The bill specifies that written settlement offers are presumed to protect the public interest. The bill creates a process by which a property owner may notify a government that a law or regulation imposes a limitation on the allowable uses of his or her property. The government would have 45 days to provide a written response to the property owner, describing the limitations imposed on the property by the law or regulation. At this point, a claim by the property owner that is filed within one year of the government's written response is deemed ripe, without the property owner having to first file an application and have the application be denied. The bill gives the property owner the option to have the court, rather than a jury, determine damages. It allows a property owner to challenge an unlawful exaction as soon as he or she must comply with the exaction, without waiting for a written notice of the action from the government. The bill also amends the attorney fee provisions of the Act by allowing a prevailing claimant to recover attorney fees incurred from the time the claimant files notice with the government instead of from the time the claimant files suit. The bill specifies that a property owner entitled to relief under the Act maintains entitlement to pursue the claim if the owner filed a claim under the Act but subsequently relinquishes title to the subject real property before the claim reaches final resolution. Finally, the bill specifies that it applies to claims brought in response to government actions taken on or after July 1, 2021 (90 days before the bill's effective date). Effective October 1, 2021. (Cruz)

Growth Management (Neutral)

CS/CS/CS/HB 59 (McClain) is a comprehensive growth management bill. The bill makes several changes to state growth management statutes relating to comprehensive plans, development agreements, developments of regional impact, and the sale of property by the Department of Transportation. It requires a local government to include a private property rights element in its comprehensive plan by the earlier of the date of adoption of its next proposed plan amendment initiated after July 1, 2021, or the date of its next scheduled evaluation and appraisal report. It provides a model statement of rights

that local governments may adopt for the new property rights element. The bill allows the parties to a development agreement to amend or cancel the agreement without the consent of other property owners whose property was originally subject to the agreement, unless the amendment or cancellation would directly modify the allowable uses or entitlements of such owners' property. The bill specifies that development agreements for developments of regional impact (DRI) entered on or before April 6, 2018, and previously classified as "essentially built out," may be amended using processes adopted by local governments for amending development orders. It further specifies that such amendment may authorize the DRI developer to exchange approved land uses if the developer demonstrates the exchange will not increase impacts to public facilities. It requires the Florida Department of Transportation, when selling property, to provide a right of first refusal to the property's prior owner and provides a process for implementing the right of first refusal. The bill requires the comprehensive plan for a newly incorporated municipality that becomes effective after January 1, 2016, to: incorporate all development orders existing before the plan's effective date; not impair the completion of development in accordance with existing development orders; and vest the density and intensity approved by the development orders existing before the plan's effective date without limitation or modification. Effective July 1, 2021. (Cruz)

Home-based Businesses (Opposed)

CS/HB 403 (Giallombardo) preempts the regulation of home-based businesses. It provides that local governments may not take any action to license or otherwise regulate a home-based business except as authorized in the bill. It specifies a home-based business that operates from a residential property: may operate in an area zoned for residential use; may not be regulated or licensed in a manner that is different from other businesses except as provided; and is only subject to applicable business taxes under chapter 205 in the county and municipality where it is located. The bill provides that a business is considered home-based if it operates from a residential property and meets specified criteria. First, the employees who work at the residential dwelling must also reside there, except up to two people who do not reside at the dwelling may work there (in addition to any remote employees). Second, parking related to the business complies with local zoning and the need for parking may not be greater in volume than would normally be expected at a residence. A local government may regulate the use of vehicles or trailers associated with the business, provided the regulations are not more stringent than those applicable to residences where no business is conducted. Vehicles and trailers associated with a home-based business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Local governments may regulate the parking or storage of heavy equipment that is visible from the street or neighboring property. Third, as viewed from the street, the use is consistent with uses of residential areas that surround the property. External modifications of a residential dwelling must conform to the character and aesthetics of the neighborhood. Retail transactions may not be conducted at a structure other than the dwelling. Fourth, the business activity must be secondary to the property's use as a residence. Fifth, the business activities must comply with relevant local or state regulations regarding signage and equipment or processes that create noise, odors and similar external impacts. Local regulations about external impacts may not be more stringent than those that apply to a residence where no business is conducted. Sixth, business activities must comply with local, state, and federal regulations with respect to corrosive, combustible or other hazardous materials. The bill provides a mechanism for an adversely affected home-based business owner to challenge local government action in violation of the bill's requirements and authorizes prevailing party fees and costs. Local requirements related to transient lodging establishments are not superseded by the bill. Effective July 1, 2021. (Cruz)

Impact Fees (Opposed – Preemption)

CS/CS/CS/HB 337 (DiCeglie) is a comprehensive impact fee bill. The bill provides that if an impact fee increases not more than 25% over the current rate, the increase must be implemented in two equal annual increments. If a fee is increased between 25 and 50 percent over the current rate, the phase-in must be in four equal installments. The bill prohibits an increase of an impact fee greater than 50% and provides that an impact fee may not be increased more than once every four years. The bill provides an exception to these requirements if the governmental entity establishes the need for the increased fee pursuant to the rational nexus test, uses a study (completed within the 12 months preceding the increase) showing that extraordinary circumstances require the additional increase, holds at least two publicly noticed workshops, and adopts the increase by a 2/3 vote. The impact fee increase limitations are retroactive to January 1, 2021.

The bill provides definitions for “infrastructure” and “public facilities.” Infrastructure is defined as a fixed capital expenditure or fixed capital outlay, excluding repair and maintenance costs, associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of at least five years; related land acquisition, land improvement, design, engineering and permitting costs; and other related construction costs needed to bring the public facility into service. The term also includes police, sheriff, fire and EMS vehicles, school buses, and equipment necessary to outfit the vehicle for official use. “Public facilities” are defined as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks, and recreational facilities, as well as emergency medical, fire, and law enforcement facilities. Similar to current law requirements for local governments, the bill requires special districts to credit against the collection of impact fees, on a dollar-for-dollar basis, any contributions related to public facilities towards impacts on the same type of public facilities for which the contribution was made. Impact fee credits must be provided regardless of any provision in a local charter, policy, ordinance, development order or permit. The assignability and transferability of impact fees apply to all impact fee credits regardless of whether the credit was established before or after the bill’s effective date. Finally, the bill revises the current law requirement relating to affidavits that must be submitted by a governmental entity’s Chief Financial Officer with the annual financial or audit report by expanding the items to be attested. Effective upon becoming law. (Cruz)

Small Scale Development Amendments (Neutral)

HB 487 (Duggan) increases the maximum acreage of a small-scale comprehensive plan amendment from 10 acres to 50 acres and increases the maximum acreage for a small-scale plan amendment within a rural area of opportunity from 20 acres to 100 acres. In addition, the bill authorizes any landowner with a development order existing before the incorporation of a municipality to elect to abandon the development order and develop the vested density and intensity contained therein so long as the vested uses, density, and intensity are consistent with the municipality’s comprehensive plan and all existing obligations in the development order regarding concurrency remain. Effective July 1, 2021. (Cruz)

Special District Accountability (Neutral)

CS/CS/CS/HB 1103 (Maggard) imposes new reporting and review requirements on special districts. It specifies the annual financial auditing report of a community redevelopment agency must be filed separately from the annual financial auditing report of the entity that created it. It requires all independent special fire control districts and hospitals governed by a special district or the board of a public health trust to have a performance review every five years starting October 2022 and October

2023, respectively. The bill defines a “performance review” and specifies the review must be conducted by an independent entity. The bill directs the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to conduct performance reviews of fire control districts located in rural areas of opportunity and independent mosquito control districts and soil and water conservation districts. A performance audit by the Auditor General in the same fiscal year may be used to satisfy the performance review requirement. The bill requires the annual financial report and annual financial audit report of all special districts to include in the reports the total number of employees and independent contractors, their compensation, and each construction project costing at least \$65,000. It requires independent special districts that levy ad valorem taxes or non-ad valorem assessments to include in their annual financial reports the rate of such levies, the total amount collected by such levies, and the total amount of outstanding bonds and their terms. Special districts that amend their annual budget are required to file a budget variance report. Effective October 1, 2021. (Cruz)

OTHER

Cottage Food Operations (Neutral)

CS/HB 663 (Salzman) addresses the regulation of cottage food operations. Known as the Home Sweet Home Act, the bill increases annual gross sales of cottage food products from \$50,000 to \$250,000 and authorizes the sale and delivery of cottage food products. Cottage foods are certain food products that have been determined by the Department of Agriculture and Consumer Services to be safe for production at a person’s residence, such as breads, honey, cakes, and popcorn. The bill allows for the sale or delivery of cottage food products by U.S. mail or commercial mail delivery. Furthermore, the bill preempts the regulation of cottage food products to the state and prohibits any local law, ordinance, or regulation from regulating the preparation, processing, storage, and sale of these products. The bill specifies that they must comply with all local home-based business ordinances. Effective July 1, 2021. (Taggart)

County and Municipal Code Enforcement (Neutral)

CS/SB 60 (Bradley) prohibits code enforcement officers from investigating and enforcing a potential code violation if the complaint is received anonymously. The bill requires any person who reports a violation of a code or ordinance to provide their name and address to the local government before any enforcement proceedings occur. The bill allows for enforcement of anonymous complaints if they pose an imminent threat to public health, safety or welfare or imminent destruction of habitat or sensitive resources. Nothing in the bills prohibit a code enforcement officer from proactively enforcing a code violation. Effective July 1, 2021. (Taggart)

Legal Notices (Supported)

CS/HB 35 (Fine) provides local governments the option to publish legal notices on a newspaper’s website in lieu of a paper-based publication. The bill revises requirements for publications that are eligible to publish legal notices, making some smaller publications that are free to the public now eligible. If a local government chooses to switch legal notices to a newspaper’s website, they must first provide notice to the general public before using an internet-only publication. Specifically, the governmental agency must give notice of its intent in a print edition of a newspaper and conduct a public hearing. The public hearing is meant to determine that an Internet-only publication is in the public interest and that residents within the jurisdiction of the governmental agency have sufficient access to the Internet. This determination must be made by a majority vote of the governing body. All format and accessibility requirements of legal notices also apply to Internet-only publication of legal

notices. A newspaper's print edition section must contain a disclaimer stating that additional legal notices may be accessed on the newspaper's website and the statewide legal notice website. Conversely, the newspaper's website must also contain a disclaimer that legal notices are published in the print section of the newspaper and the statewide legal notice website.

The bill allows for a newspaper to charge for the publication of a legal notice on the newspaper's website without rebate, commission, or refund. However, the newspaper may not charge a higher rate for publication than the amount that would be authorized if the legal notice were publicized in print. The bill prescribes penalties for accepting rebates, commissions, or refunds in connection with the any amounts charged for publication of legal notices that are published on the Internet.

If a government agency exercises the option to publish legal notices on a newspaper website, the agency must provide an additional notice at least once per week in a print edition newspaper of general circulation within the region in which the government agency is located. This notice must contain a statement that legal notices pertaining to the agency do not all appear in the print edition of the local newspaper and that a full listing may be accessed on the newspaper's website and on the statewide legal notice website located at www.floridapublicnotices.com. The government agency must also post a link on its website homepage to a webpage that list all the newspapers in which the government agency publishes legal notices. Effective July 1, 2021. Chapter No. 2021-17. (Taggart)

Preemption of Local Occupational Licensing (Opposed – Preemption)

HB 735 (Harding) expressly preempts the licensing of occupations to the state. It defines "occupation" to include a paid job, work, trade, employment, or profession and defines "licensing" to include any training, education, test, certification, registration, procedure, or license that is required for a person to perform an occupation. The bill exempts local government license requirements imposed before January 2021 but provides that such local requirement expires July 2023 and may not be modified before the expiration. It exempts any local government licensing requirement that is expressly authorized by general law. It prohibits a local government from requiring a person to obtain a license for a job scope that does not substantially correspond to the job scope of certain contractor categories specified in section 489.105(3)(a) – (o) and (q) or authorized in section 489.1455(1), including but not limited to the following: painting; flooring; cabinetry; interior remodeling; driveway or tennis court installation; handyman services; decorative stone, tile, marble, granite, or terrazzo installation; plastering; stuccoing; caulking; and canvas awning or ornamental iron installation. The bill authorizes local governments to issue journeyman licenses in the following trades: plumbing; pipe fitting; mechanical; HVAC; electrical; or alarm systems. Effective July 1, 2021. (Cruz)

Substance Abuse Services (Neutral)

CS/CS/SB 804 (Harrell) makes several changes to the licensing and regulation of substance abuse programs, including recovery residences or "sober homes". The bill authorizes the Department of Children and Families (DCF) to suspend a service provider's license for failing to pay, within 60 days of a date set by the DCF, administrative fines and accrued interest related to disciplinary action taken against the service provider. The bill also mandates that a service provider pay fines and accrued interest resulting from violations of patient referral prohibitions within 60 days of a date specified by the DCF. If a service provider fails to remit payment within 60 days, the bill requires the DCF to immediately suspend the service provider's license. The bill also prohibits local governments from reclassifying single-

family and two-family dwellings used as a recovery residence for purposes of enforcing the Florida Building Code, including the installation of fire sprinklers. Effective July 1, 2021. (Taggart)

Tobacco and Nicotine Products (Opposed – Preemption)

CS/CS/SB 1080 (Hutson) is known as the “Tobacco 21” bill that increases the legal smoking age to 21 to comply with federal law. The bill includes a preemption on the regulation of the marketing, sale or delivery of tobacco or nicotine products. Effective October 1, 2021. Chapter No. 2021-14. (Taggart)

Tolling and Extension of Permits and Other Authorizations During States of Emergency (Opposed – Mandate)

CS/CS/SB 912 (Albritton) expands current law provisions that authorize extensions of development orders, building permits and environmental resource permits during a state of emergency issued by the Governor for a natural emergency. The period to exercise such rights is tolled during the state of emergency plus an additional six months. The bill adds consumptive use permits (for land subject to a development agreement in which the permittee and the developer are the same entity), development permits, and development agreements as permits and authorizations subject to tolling and extension. It applies retroactively to any declaration of a state of emergency issued by the Governor for a natural emergency since March 2020 (e.g., COVID-19 pandemic). Lastly, the bill preserves enterprise zone boundaries in existence before December 2015, for the purpose of allowing local governments to administer local incentive programs within those boundaries through December 31, 2021. Effective upon becoming law. (Cruz)

Urban Agriculture (Supported)

CS/SB 628 (Rouson) creates a distinction for local government regulatory purposes between traditional farm operations and “urban agriculture.” The term “urban agriculture” applies to any new or existing noncommercial agricultural uses on land that is: within a dense urban land area; not classified as agricultural; not zoned as agriculture as its principal use; and designated by a municipality for inclusion in an urban agriculture pilot project that has been approved by the Department of Agriculture and Consumer Services (DACS). The term does not apply to vegetable gardens for personal consumption on residential properties. The bill exempts equipment used on a farm or used to transport farm products for the purpose of urban agriculture from the current law requirement that farm equipment be stored, maintain, or repaired within the boundaries of the owner’s farm and be located at least 50 feet away from a public road. It does not exempt nonresidential farm buildings, fences, or signs located on lands used for urban agriculture from the Florida Building Code or local government regulation. It expressly preserves the authority of local governments to regulate urban agriculture if the activities are part of a DACS-approved pilot project, the municipality enacts regulations applicable to urban agriculture, and the regulation designates existing farm operations as legally nonconforming before the regulation’s adoption. The bill authorizes DACS to approve five urban agricultural pilot programs in municipalities. It sets forth requirements, timeframes, and reporting requirements for the programs. Effective July 1, 2021. (Cruz)

Personnel

Combating Public Disorder (Opposed – Impact on Municipal Operations)

CS/HB 1 (Fernandez-Barquin) is aimed at curbing riots and violent protests. Of specific interest to municipalities are provisions that make it difficult to reduce municipal law enforcement funding, in certain cases waive the sovereign immunity of cities for damages arising from riots, and provisions that create specific law enforcement actions when responding to riots.

The legislation creates a process for the state attorney or member of the governing body of a city to file a petition to the Administration Commission (comprised of the governor and Cabinet) within 30 days after the municipality posts its tentative budget if the budget contains a funding reduction to the operating budget of the municipal law enforcement agency. The governing body of the municipality has five working days to file a reply with the Executive Office of the governor and must deliver a copy of the reply to the petitioner. After receiving the petition, the Executive Office of the governor must provide for a budget hearing to discuss the petition and the reply. The Administration Commission then has 30 days to provide a report of findings and approve or modify the municipal budget. The report by the Commission is final.

The bill also creates civil liability for damages caused during a riot. A governing body or a person authorized by the governing body that breaches the duty to respond appropriately to protect persons and properties during a riot based on the availability of adequate equipment and applicable laws is civilly liable for any damages arising from the riot. The bill waives sovereign immunity for any governing body found liable, which means cities would not be protected by statutory caps that normally limit the amount someone can recover when suing a government entity.

The bill requires law enforcement officers to hold individuals committing crimes related to riots in jail until their first appearance. Law enforcement cannot simply give tickets to anyone cited for crimes related to riots. Lastly, the legislation increases criminal penalties for actions relating to violent protests or riots. Effective upon becoming law (April 19, 2021). Chapter No. 2021-006. (Hughes)

Department of Financial Services (Neutral)

CS/CS/CS/HB 1209 (Fetterhoff) amends various provisions relating to the Department of Financial Services. Of note to municipalities, the bill allows contractors to begin repairs on previously permitted fire alarms after filing a permit application and specifying the repair is not compliant until permitted and approved. The bill extends the compliance deadlines and revises permit application requirements relating to minimum radio signal strength for fire department communications and two-way radio systems for existing high-rise buildings and existing apartment buildings. The bill allows fire service providers to hire volunteer firefighters, and allows them to continue to function in a volunteer firefighter capacity for the first year of employment while they obtain career firefighter certifications. The bill also revises the composition of the Firefighters Employment, Standards, and Training Council but retains the Florida League of Cities appointment. Effective July 1, 2021, except as otherwise provided. (Hughes)

FRS Employer Contribution Rates (Neutral)

SB 7018 (Governmental Oversight and Accountability) establishes the contribution rates paid by employers participating in the Florida Retirement System beginning July 1, 2021. These rates are intended to fund the full normal cost and the amortization of the unfunded actuarial liability of the FRS. With these modifications to employer contribution rates, the FRS Trust Fund will receive roughly \$373.5 million more in revenue on an annual basis beginning July 1, 2021. The public employers that incur these additional costs are state agencies, state universities and colleges, school districts, counties, municipalities and other governmental entities that participate in the FRS. Effective July 1, 2021. (Hughes)

Procurement

Contracts and Grants with Foreign Entities (Neutral)

CS/HB 7017 (Public Integrity & Elections Committee) requires local governments that receive any grant or gift of \$50,000 or more from any foreign government, agency or individual to disclose the grant or gift to the Department of Financial Services within 30 days of receipt. Anyone seeking a grant or contract from a local government for more than \$50,000 is required to disclose to the local government any contracts they may have with China, Cuba, Iran, North Korea, Russia, Syria or Venezuela. Any individual who fails to disclose a contract captured under the bills would be liable for a civil violation with a fine of \$5,000 and may be removed from their position by the governor. The bill also prohibits local governments from participating in any agreement from the countries listed above to establish a program to promote the language or culture of those countries. CS/HB 7017 also increase the gift or grant amount to \$100,000. Effective July 1, 2021. (Taggart)

Public Records and Public Meetings

Public Records (Opposed – Preemption)

CS/SB 400 (Rodrigues) prohibits a city, after receiving a public record request, from filing an action for declaratory judgement against the individual or entity making the request. The bill prevents cities from seeking clarification from the courts as to whether a record is exempt or exempt and confidential. Effective July 1, 2021. (Taggart)

Public Records (Neutral)

CS/CS/HB 781 (Robinson) authorizes the clerk of circuit court to give access to information recorded in the official records of a county that is otherwise exempt from public records requirements to specified parties such as attorneys who are admitted to the Florida Bar, members in good standing, authorized title insurers, their affiliates, title insurance agents or title insurance agencies, financial institutions and their affiliates and entities that provide access to title information, tax information and document images for insurance companies, real estate and mortgage investors, attorneys and governmental agencies through a limited access licensing agreement. Effective July 1, 2021. (Taggart)

Public Safety

Drones (Supported)

CS/CS/SB 44 (Wright) allows law enforcement agencies to use drones to provide an aerial perspective on a crowd of 50 people or more; to assist a law enforcement agency with traffic management (images may not be used for issuing traffic citations); to facilitate the collection of evidence at a crime or traffic crash scene; by a state agency or political subdivision to assess damage due to a flood, wildfire or other natural disaster that is the subject of a state or local emergency or for vegetation or wildlife management on publicly owned land or water; or by certified fire department personnel to perform tasks within the scope of their certifications. The bill specifies that law enforcement agencies must create policies and procedures for use of the drone, storage of images and video collected. Also, drones used for the purposes set forth in the bill must be purchased by an approved manufacturer. By January 1, 2023 all governmental agencies must discontinue the use of drones not produced by an approved manufacturer. The Department of Management Services has until January 2, 2022 to establish this list. Effective July 1, 2021. (Taggart)

Law Enforcement and Correctional Officer Practices (Neutral)

HB 7051 (Judiciary Committee) makes several changes to the requirements for the operations and standards of law enforcement agencies including:

- Requires law enforcement officers to disclose if they are subject to a pending investigation or if they separated from their previous agency because of an investigation while applying to a new agency.
- Requires a law enforcement agency to include the facts and reasons an applicant was separated from previous employment as part of a background check investigation of an applicant.
- Requires a law enforcement agency to maintain an officer's employment information for a minimum of five years following the date of the officer's separation from the agency.
- Requires the Criminal Justice Standards and Training Commission to develop basic skills training and each law enforcement agency to develop policies in the use of force.
- Requires an independent review of a use of force incident involving death or the discharge of a firearm. The incidents must also be reported to the Florida Department of Law Enforcement.
- Prohibits children under age 7 from being arrested unless the violation of law is a forcible felony.

Effective July 1, 2021. (Taggart)

Preemption of Firearms and Ammunition (Opposed – Mandate)

SB 1884 (Rodrigues) expands the scope of when an individual or organization may file suit against a municipality for violating the state preemption on firearms and ammunition to include any local policies that are written or unwritten. Current law awards the prevailing plaintiff attorney fees. The bill considers the plaintiff the prevailing party even if the local government voluntarily changes their ordinance or policy, written or unwritten. Effective July 1, 2021. Chapter No. 2021-15. (Taggart)

Safety of Religious Institutions (Neutral)

CS/CS/HB 259 (Williamson) authorizes an individual who is a licensed concealed weapons or firearms holder to carry their weapon or firearm on property of a church, synagogue or any other religious institution unless specifically prohibited by the religious institution. Effective upon becoming law. (Taggart)

Volunteer Ambulance Services (Neutral)

CS/CS/CS/HB 805 (Caruso) When authorized by the chief of police of municipality or the sheriff of a county, the bill authorizes vehicles of certain not-for-profit faith-based volunteer ambulance services to display red lights and operate emergency lights and sirens while responding to an emergency. Privately owned vehicles belonging to medical staff physicians and technicians of volunteer ambulance services are also authorized to use red lights on privately owned vehicles and to disregard specified traffic laws and ordinances while responding to an emergency. Any emergency medical technician, doctor, or paramedic who is using his or her personal vehicle with a red light to respond to an emergency call must have completed a 16-hour emergency vehicle operator course.

The bill exempts faith-based volunteer first responder agencies from the certificate of public convenience and necessity (COPCN) requirements if the agency:

- Has been operating in this state for at least 10 years;
- Has no for-profit subsidiaries;

- Is a not-for-profit corporation;
- Uses volunteers to provide services;
- Does not operate for pecuniary profit or financial gain and does not distribute to or inure to the benefit of its directors, members, or officers any part of its assets or income;
- Does not receive government funds, however, may receive funding from specialty license proceeds;
- Has never had a license denied, revoked, or suspended;
- Provides free service; and
- Provides a management plan to DOH that includes a training program, complaint management system, accident or injury handling system, quality assurance program, and proof of adequate insurance requirements.

This exemption may be granted to no more than four counties and the service must comply with all other requirements for licensure. A county may not limit a volunteer ambulance service from responding to an emergency or providing emergency services within its jurisdiction.
Effective July 1, 2021. (Taggart)

Telecommunications

Broadband Internet Infrastructure (Neutral)

CS/CS/HB 1239 (Tomkow) is the "Florida Broadband Deployment Act of 2021" and creates two programs intended to expand broadband service to those currently unserved. The bill requires municipal electric utilities, through July 1, 2024, to offer broadband providers a discounted rate of one dollar per attachment per year for any new pole necessary to make broadband service available to an unserved or underserved consumer within the utility's service territory. The bill provides the terms for these discounted attachments. The bill prohibits municipal electric utilities from raising their current pole attachment rates for broadband providers before July 31, 2022. The bill also provides safety and reliability standards for pole attachments and specifies each party's responsibility for costs associated with replacement poles. The bill also creates a program within the Florida Office of Broadband to award grants, subject to appropriation, to applicants who seek to install or deploy infrastructure that expands broadband service to unserved areas. The bill specifies that political subdivisions are eligible for these grants only if other broadband Internet service providers have not deployed service to an unserved area. The bill establishes a process by which an existing broadband provider may challenge a grant application on the grounds that the provider already offers or plans to offer service in the area at issue. The bill limits grant awards to 50 percent of the total cost of a project, but no more than \$5 million per grant, and prohibits grant awards for projects that receive other federal funding. The bill also appropriates funds to develop geographic information system maps of broadband Internet services availability consistent with FCC standards. Effective July 1, 2021. Chapter No. 2021-24. (Hughes)

Utility and Communications Service Poles (Neutral)

CS/SB 1944 (Albritton) gives broad authority to the Public Service Commission to regulate and enforce rates, charges, terms and conditions of pole attachments. The bill defines "redundant pole" and requires that attaching entities remove their pole attachments from a redundant pole within 180 days of notice of the request by the pole owner. Under certain circumstances, the pole owner may transfer or relocate the pole attachment to a new pole at the non-compliant attaching entity's expense unless the pole attachments are owned by an electric utility. Effective upon becoming law. (Hughes)

TORT LIABILITY

COVID-19 Civil Liability Protection (Supported)

CS/SB 72 (Brandes) provides heightened legal protections against liability as a result of the COVID-19 pandemic to certain business entities, educational institutions, governmental entities and religious institutions. The legislation defines governmental entity to include municipalities. The legislation requires the plaintiff to make a detailed account to their claim and submit an affidavit signed by a physician collaborating the belief that the plaintiff's COVID-19-related damages, injury or death occurred as a result as stated. If the plaintiff fails to do either, the court must dismiss the action without prejudice. The court must also determine whether the business or government entity made a good faith effort to substantially comply with the authoritative or controlling government health standards or guidance at the time the cause of action occurred. The burden of proof lies with the plaintiff to prove that the business or government entity did not make a good faith effort. If the business or government entity is found to have made a good faith effort, they are immune from civil liability. If the court finds that a good faith effort was not made, the plaintiff may proceed with the action. The plaintiff must prove gross negligence (a higher standard than negligence). The bill increases the standard of evidence needed on a COVID-19-related claim. If the plaintiff fails to prove these heightened requirements, the business or government entity is not liable for any act or omission relating to a COVID-19-related claim. The civil action for a COVID-19-related action must be commenced within one year of the alleged incident. The bill applies retroactively but will not apply to civil suits commenced before the effective date of the act. The bill is effective upon becoming law (March 29, 2021). Chapter No. 2021-001. (Cruz)

Transportation

Motor Vehicle Rentals (Supported)

CS/CS/SB 566 (Perry) establishes insurance and operational requirements for peer-to-peer car-sharing program. For P2P sharing program agreements involving a shared vehicle that is registered in the state, the surcharge shall be \$1 per day. The surcharge applies to the first 30 days of a car-sharing period for any P2P car-sharing program agreement. Effective January 1, 2022. (Taggart)

Operation and Safety of Motor Vehicles and Vessels (Supported)

CS/CS/SB 1086 (Hutson) amends numerous provisions of current law relating to boater safety, derelict vessels, marine sanitation devices, and recovery of space flight assets. The bill defines "human-powered vessel" and imposes requirements for the operation of human-powered vessels within the boundaries of a marked channel of the Florida Intracoastal Waterway. It designates Monroe County as an anchoring limitation area upon the county meeting certain conditions. It authorizes the Florida Fish and Wildlife Conservation Commission (FWCC) to establish anchoring/mooring/beaching/grounding protection zones for springs. The bill makes multiple revisions to laws governing derelict vessel identification and removal. It provides that officers may provide in-person notice that a vessel is at risk of becoming derelict if there is a body camera recording. The bill also authorizes specified officers and agencies to relocate an at-risk vessel to a location further from a mangrove or upland vegetation. The bill authorizes the FWCC to establish a derelict vessel prevention program, which may include provisions for removal of nuisance, derelict or at-risk vessels; a vessel "turn-in" program for owners; and removal of abandoned vessels. It authorizes local governments to enact and enforce regulations to remove an abandoned or lost vessel affixed to a public mooring. The bill specifies conditions under which vessels with repeated violations may be declared a public nuisance and provides requirements for notice to vessel owners and

remedies. It amends the definition of “derelict vessel” to include criteria for determining whether a vessel is considered wrecked, junked, or substantially dismantled. The bill prohibits the Department of Highway Safety and Motor Vehicles from issuing a certificate of title to an applicant for a vessel that has been deemed derelict, and beginning in 2023, authorizes the agency to reject an application for a certificate of title for a vessel that has been deemed derelict. The bill amends provisions relating to anchoring or mooring limitations to clarify that distance restrictions apply to both public and private marinas and apply only to public vessel launching or loading facilities. It authorizes municipalities to establish boating-restricted areas within the boundaries of a permitted public mooring field and a buffer around the mooring field of up to 100 feet. It also authorizes local governments to establish vessel-exclusion zones within the portion of the Intracoastal Waterway within their jurisdictions, except local governments may not establish such a zone for public bathing beaches or swim areas within the waterway. The bill creates provisions addressing vessel speeds within specified distances of activated emergency vessels and construction barges. It requires owners or operators of live-aboard vessels to maintain documentation relating to marine sanitation devices. The bill establishes, upon approval by the Environmental Protection Agency, a no-discharge zone for all waters within aquatic preserves and provides for penalties for violation of the prohibition. Effective July 1, 2021. (O'Hara)

Transportation (Opposed – Preemption)

CS/CS/CS/SB 1194 (Hooper) contains various transportation-related provisions. Of particular importance to municipalities with seaports, provisions from CS/CS/CS SB 426 and CS/CS/CS/HB 267 were amended onto the bill. The bill prohibits local governments from restricting or regulating maritime commerce in seaports including, but not limited to, regulating or restricting a vessel's type or size; source or type of cargo; or number, origin or nationality of passengers, as well as environmental or health records of a particular vessel. Any local ballot initiative or referendum that was adopted before, on, or after July 1, 2021, and any local law, charter amendment, ordinance, resolution, regulation, or policy adopted in such an initiative or referendum, is prohibited, void, and expressly preempted to the state. Effective July 1, 2021. (Taggart)

Utilities and Natural Resources

Anchoring Limitation Areas (Neutral)

CS/CS/CS/SB 1946 (Polsky) authorizes counties, except for Monroe County, to establish an anchoring limitation area adjacent to urban areas that have residential docking facilities and significant recreational boating traffic. The aggregate total of anchoring limitation areas in a county may not exceed ten percent of the county's navigable-in-fact waterways as defined in the bill. The bill specifies requirements for anchoring limitation areas (current statutorily designated anchoring areas are grandfathered). It prohibits a person from anchoring a vessel for more than 45 consecutive days in any 6-month period in an anchoring limitation area. The bill establishes Monroe County as an anchoring limitation area within which a vessel may be anchored on waters of the state in the same location for a maximum of 90 days. The bill specifies conditions precedent for the Monroe County anchoring limitation area. The anchoring limitations do not apply to approved and permitted moorings and mooring fields. The bill establishes a process for a vessel owner or operator to provide proof that a vessel has not exceeded the anchoring limitations. It specifies that a vessel that is the subject of more than three violations within 12 months which result in dispositions other than dismissal or acquittal shall be declared to be a public nuisance. Effective upon becoming law. (O'Hara)

Biscayne Bay (Neutral)

CS/HB 1177 (Avila) establishes the Biscayne Bay Commission and provides for the Commission's purpose, membership, duties, and authority. It prohibits sewage disposal facilities from disposing of any wastes into Biscayne Bay without providing for advanced waste treatment. Effective upon becoming law. (O'Hara)

Documentary Stamp Tax Distributions (Neutral)

SB 2512 (Appropriations) revises distributions from the Documentary Stamp Tax. It adds distributions to the newly created Resilient Florida Trust Fund and to the Water Sustainability and Accountability Trust Fund (used for the wastewater grant program established in section 403.0673, F.S.). It reduces current distributions to the State Housing Trust Fund, but also prevents funds distributed to the housing trust fund from being transferred to General Revenue. Based on these modified distributions, in the upcoming fiscal year affordable housing programs will receive approximately \$200 million, and programs established for resiliency and wastewater would receive approximately \$111 million. Effective July 1, 2021. (O'Hara)

Express Preemption of Fuel Retailers & Related Transportation Infrastructure (Opposed – Preemption)

CS/CS/HB 839 (Fabricio) prohibits a local government from banning (or taking action that results in a de facto ban) gas stations or related transportation infrastructure necessary to provide fuel to gas stations. In addition, the bill prohibits a local government from requiring gas stations to install particular types of fueling infrastructure, such as electric vehicle charging stations. The bill clarifies that it does not preempt a local government from adopting and implementing requirements relating to the siting, development or redevelopment of gas stations or related transportation infrastructure, so long as the requirements do not amount to a de facto prohibition within zoning or land use classifications where such infrastructure is consistent with other allowable uses. Effective upon becoming law. (O'Hara)

Farming Operations (Opposed – Preemption)

CS/CS/CS/SB 88 (Brodeur) amends the Florida Right to Farm Act, which is intended to protect reasonable agricultural activities from nuisance lawsuits. The Right to Farm Act specifies that no farm operation that has been in operation for one year or more and that was not a nuisance at the time of its establishment shall be a public or private nuisance if the farm operation conforms to generally accepted agricultural and management practices. The bill expands the definition of "farm operations" in the Act to add "agritourism activities" to the list of farm operations that receive legal protections in nuisance suits, and it adds the generation of fumes and particle emissions to the list of conditions or activities that constitute farm operations under the Act. The "established date of operation" for an agritourism activity is the date the specific agritourism activity commenced, which may be different from the established date for the underlying farm operation. In addition, the bill provides limitations on liability from nuisance, trespass or tort actions that may be filed relating to farming or agritourism activities. It specifies that a farm may not be held liable for operations alleged to cause harm outside of the farm unless the plaintiff proves by clear and convincing evidence that the claim arises out of conduct that does not comply with state and federal environmental laws, regulations or best management practices. The bill further provides that a nuisance action may not be filed unless the property affected by the activity is located within one-half mile of the activity. The bill limits compensatory damages in a private nuisance action to the reduction in fair market value of the affected property. It prohibits the recovery of punitive damages for nuisance actions under specified conditions. Finally, the bill requires payment of

attorney fees and costs by plaintiffs who fail to prevail in a nuisance action. Effective July 1, 2021.
Chapter No. 2021-007. (O'Hara)

Liability of Persons Providing Areas for Public Outdoor Recreational Purposes (Neutral)

CS/SB 920 (Bradley) amends current law which provides that a property owner who enters an agreement with a state agency for outdoor recreation purposes, where the agreement recognizes the agency is responsible for personal injury, loss or damage resulting from the agency's use of the property under the terms of the agreement subject to the limitations of Section 768.28, Florida Statutes, owes no duty of care to keep the area safe for entry or use by others or to give warning of any hazardous conditions. The bill expands the definition of "state agency" to include any public entity created by law and revises the "outdoor recreation" purposes included within its scope to include traversing property for the purpose of ingress and egress to or from public lands that are used for outdoor recreation purposes. In addition, the bill creates an exception where the owner of an area used for outdoor recreational purposes may derive revenue from concessions or special events and retain the liability protection provided by this statute if such revenue is used exclusively to maintain, manage, and improve the outdoor recreational area. Effective July 1, 2021. (O'Hara)

Petroleum Fuel Measuring Devices (Neutral)

CS/CS/SB 430 (Rodriguez) preempts the regulation of petroleum fuel measuring devices to the Florida Department of Agriculture and Consumer Services. Current law provides for the regulation of these devices at wholesale and retail establishments by the Department, which includes measures to restrict unauthorized access of customer payment card information. The bill prohibits a state attorney from using Section 525.16, Florida Statutes, to enforce Department rules adopted pursuant to current law. Effective July 1, 2021. (O'Hara)

Preemption Over Restriction of Utility Services (Opposed – Preemption)

CS/CS/HB 919 (Tomkow) prohibits a local government from taking any action that restricts or prohibits, or has the effect of restricting or prohibiting, the types or fuel sources of energy production which may be used, delivered, converted, or supplied by various electric or gas utilities, transmission companies or dealers. The prohibition is retroactive in nature. The bill does not prohibit a governmental entity from adopting regulations or policies governing an electric or natural gas utility that it owns or operates and directly controls. Effective July 1, 2021. (O'Hara)

Ratification of Department of Environmental Protection Rules (Neutral)

HB 1309 (Overdorf) ratifies the Department of Environmental Protection's proposed biosolids rules, which are anticipated to have an estimated regulatory cost exceeding \$1 million. The bill exempts the biosolids rules from review and approval by the Environmental Regulation Commission. In addition, the bill ratifies the Department's proposed rules relating to the Central Florida Water Initiative (CFWI), modifies section 373.0465, F.S., relating to the CFWI, and creates section 373.0466 to establish the CFWI Grant Program. Finally, the bill expands the eligibility requirements for the state drinking water revolving loan fund to include priority consideration for projects that implement water supply plans and develop water sources as an alternative to continued reliance on the Floridan Aquifer. Effective upon becoming law. (O'Hara)

Reclaimed Water (Opposed – Mandate)

CS/SB 64 (Albritton) requires domestic wastewater utilities to submit a plan to the Department of Environmental Protection (DEP) by November 2021 for eliminating nonbeneficial surface water

discharges (e.g., treated effluent, reclaimed water or reuse water) by January 2032. It requires DEP to approve such plans if a plan meets the following conditions: The plan will result in eliminating the surface water discharge, the plan will result in meeting statutory requirements relating to ocean outfalls, or the plan does not provide for the complete elimination of the surface water discharge but affirmatively demonstrates that specified conditions are present. The conditions are: The discharge is associated with an indirect potable reuse project, the discharge is a wet weather discharge in accordance with a permit, the discharge is into a stormwater system for subsequent withdrawal for irrigation purposes, the utility has a reuse system that achieves 90% reuse of reclaimed water, or the discharge provides direct ecological or public water supply benefits. A utility that fails to timely submit an approved plan may not discharge to surface waters after January 2028. Violations of the bill's requirements are subject to administrative and civil penalties. The bill requires DEP to submit an annual report to the governor and legislature detailing implementation status. The bill exempts the following domestic wastewater facilities from its requirements: facilities located in a fiscally constrained county; facilities located in a municipality that is entirely within a rural area of opportunity; and facilities located in a municipality having less than \$10,000 in total annual revenue. The bill authorizes DEP to establish a potable reuse technical advisory committee, provides that potable reuse projects are eligible for alternative water supply funding and provides that potable reuse projects are eligible for expedited permitting and priority state funding. In addition, the bill requires local governments to offer a 25% density or intensity bonus to developers if 75% of a development will have graywater systems installed or a 30% bonus if 100% of a development will have graywater systems installed. The bonus is in addition to any other bonus that may be in effect on July 1, 2021. Effective upon becoming law. (O'Hara)

Renewable Energy (Neutral)

CS/CS/SB 896 (Brodeur) provides legislative intent encouraging renewable solar electrical generation and declares the importance of constructing solar facilities to maintain the availability of renewable energy that is vital to Florida's energy production and economy. The bill defines the term "solar facility." Additionally, the bill mandates that solar facilities are a permitted use in all agricultural land use categories in a local government's comprehensive plan, and all agricultural zoning districts within an unincorporated area. Solar facilities must comply with setback and landscape buffer requirements and a county may enact an ordinance establishing such setback and buffer requirements. The bill provides the bill's solar facility provisions do not apply to any site that was the subject of an application to construct a solar facility submitted to a local governmental entity before July 1, 2021. This applicability provision is meant to apply to two solar projects that were rejected by Alachua and Walton counties.

The bill also defines the term "biogas" to mean a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas, and defines the term "renewable natural gas" to mean anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline. The Public Service Commission (PSC) may approve a gas public utility's cost recovery for contracts for renewable natural gas purchases that exceed current market natural gas prices, but which purchase the PSC deems reasonable and prudent. Finally, the bill makes several conforming changes to other statutes, including correcting certain statutory references. Effective July 1, 2021. (O'Hara)

Resilient Florida Trust Fund (Supported)

SB 2514 (Appropriations) creates the Resilient Florida Trust Fund within the Department of Environmental Protection and provides the trust fund is established as a depository for certain Documentary Stamp Tax revenues. Effective upon becoming law (May 12, 2021). Chapter No. 2021-29. (O'Hara)

Statewide Flooding and Sea Level Rise Resilience (Supported)

CS/CS/SB 1954 (Rodrigues) establishes a state program to address inland and coastal flooding and sea level rise. It establishes the "Resilient Florida Grant Program" within the Department of Environmental Protection (DEP), which provides funding to local governments for the costs of resilience planning and projects to adapt certain "critical assets" (defined in the bill). The grants require a minimum of 50 percent cost-share from the local sponsor, which may be waived for certain "financially disadvantaged small communities" (defined in the bill). The bill creates the "Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment," to be updated every five years by the DEP. The data set must be completed by July 2022 and include statewide sea level rise projections. The assessment must be completed by July 2023 and identify vulnerable areas, infrastructure, and critical assets. The bill requires the DEP to annually submit a "Statewide Flooding and Sea Level Rise Resilience Plan" that proposes up to \$100 million funding for projects that address risks from flooding and sea level rise. The initial plan must be submitted by December 2021. Local governments, regional resilience entities, and water management districts are authorized to submit projects to DEP for inclusion in the plan. The bill requires DEP to implement a scoring system for submitted projects. In addition, DEP is authorized to provide funding to regional resilience entities for providing technical assistance, coordinating multi-jurisdictional vulnerability assessments, and developing project proposals for the statewide resilience plan. The bill also directs the University of South Florida to create a "flood hub" to coordinate and lead statewide efforts for research and innovation, and requires the Office of Economic and Demographic Research to add an analysis of flooding issues to its annual assessment of Florida's water resources and conservation lands. The bill is effective upon becoming law and is awaiting action by the governor. (O'Hara)

Urban Agriculture (Supported)

CS/SB 628 (Rouson) creates a distinction for local government regulatory purposes between traditional farm operations and "urban agriculture." The term "urban agriculture" applies to any new or existing noncommercial agricultural uses on land that is: within a dense urban land area; not classified as agricultural; not zoned as agriculture as its principal use; and designated by a municipality for inclusion in an urban agriculture pilot project that has been approved by the Department of Agriculture and Consumer Services (DACS). The term does not apply to vegetable gardens for personal consumption on residential properties. The bill exempts equipment used on a farm or used to transport farm products for the purpose of urban agriculture from the current law requirement that farm equipment be stored, maintain, or repaired within the boundaries of the owner's farm and be located at least 50 feet away from a public road. It does not exempt nonresidential farm buildings, fences, or signs located on lands used for urban agriculture from the Florida Building Code or local government regulation. It expressly preserves the authority of local governments to regulate urban agriculture if the activities are part of a DACS-approved pilot project, the municipality enacts regulations applicable to urban agriculture, and the regulation designates existing farm operations as legally nonconforming before the regulation's adoption. The bill authorizes DACS to approve five urban agricultural pilot programs in municipalities. It

sets forth requirements, timeframes, and reporting requirements for the programs. Effective July 1, 2021. Chapter No. 2021-28. (O'Hara)

Waste Management (Opposed – Unfunded Mandate)

CS/CS/SB 694 (Rodrigues) requires a local government that “displaces” a private waste company to provide a 3-year notice period to the company and pay the displaced company an amount equal to the company’s preceding 18 months’ gross receipts at the end of the notice period. The term “displacement” as used in the bill refers to circumstances in which a local government decides to move from a non-contracted or non-franchise system of waste services to either providing the waste service itself or by contracting or franchising with one or more private waste companies. The bill also defines “storm generated yard trash” and clarifies that a private waste company providing regular residential solid waste service is not responsible for collecting certain storm-generated yard trash unless specified in a contract or agreement with a local government. In addition, the bill requires the Department of Environmental Protection to update its 2010 report on retail plastic bags and submit the updated report and recommendations to the legislature by December 2021. Effective July 1, 2021. (O'Hara)

Bills that Failed (in alphabetical order by subject area)

Building Codes/Construction

Building Design (Opposed – Mandate)

CS/CS/HB 55 (Overdorf) and **CS/SB 284** (Perry) would have preempted local governments from adopting zoning and development regulations that require specific building design elements for single- and two-family dwellings, unless certain conditions are met. The bills defined the term “building design elements” to mean exterior color, type or style of exterior cladding; style or material of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows or doors; and number, type and layout of rooms. The bills were amended to exempt historic districts, CRAs and planned unit developments created before July 1, 2021. CS/CS/HB 55 would have exempted planned unit developments or master planned communities in perpetuity, as well as local governments with design review boards or architectural review boards established before July 1, 2021. (Taggart)

Fees for the Enforcement of Florida Building Code (Neutral)

HB 1017 (Rayner) and **SB 1648** (Powell) would have authorized local governments the ability to waive the fees associated with enforcing the Florida Building Code for development, construction or rehabilitation of affordable housing. (Taggart)

Economic Development

Enterprise Zone Boundaries (Supported)

HB 285 (Chambliss) and **SB 892** (Rodriguez) would have extended the date in which local governments are allowed to administer local incentive programs within the boundaries of an enterprise zone from December 31, 2020, to December 31, 2025. The bills also extended the date for contiguous multiphase projects from December 31, 2025, to December 31, 2030. (Taggart)

Florida Tourism Marketing (Supported)

SB 778 (Hooper) and **HB 675** (Plasencia) would have authorized the Florida Tourism Industry Marketing Corporation “Visit Florida” to carry forward unexpended state appropriations into succeeding fiscal years. The bills also would have removed the previous set sunset date of October 1, 2023, for Visit Florida. (Taggart)

Sports Facility Development (Neutral)

HB 6011 (Beltran) would have repealed provisions relating to state funding for the purpose of constructing, reconstructing, renovating or improving facilities primarily used for sporting events. The bill would have repealed the Sports Development program in current law that provides an avenue for sports facilities to apply for a distribution from the state to fund the construction or improvements to a professional sports franchise facility. The bill also made conforming changes to other statutes related to sports development program distributions and reporting requirements. (Taggart)

Ethics and Elections

Candidate Qualifying and Campaign Expenditures (Neutral)

SB 1756 (Jones) and **HB 1365** (Willhite) would have restricted candidates for state and local office from qualifying for election based on specified circumstances involving ethics investigations or campaign finance violations. (O’Hara)

Elections (Opposed – Preemption)

SB 656 (Brandes) would have made various changes to elections procedures including voter registration, voter identification and polling locations. (O’Hara)

Fiduciary Duty of Care for Appointed Public Officers and Executive Officers (Opposed – Mandate)

CS/CS/HB 573 (Beltran) and **CS/SB 758** (Diaz) would have established a new fiduciary duty of care and imposed relating training requirements on certain appointed local public officers. In addition, the bills would have imposed restrictions on legal representation by government attorneys. (O’Hara)

Government Accountability (Neutral)

HB 1585 (Barnaby) would have created the Florida Integrity Office and the position of Florida integrity officer within the Office of the Auditor General to investigate complaints alleging waste, fraud, abuse, misconduct or gross mismanagement in connection with the expenditure of public funds within state and local government. (O’Hara)

Local Government Ethics Reform (Neutral)

HB 853 (Sirois) would have amended provisions of the Code of Ethics for Public Officers and Employees relating to conflicting business and contractual relationships, voting conflicts, annual ethics training and financial disclosure requirements. The bill would have expanded persons required to file Form 6 (full) financial disclosure to include elected mayors and governing body members of municipalities having more than \$10 million in total revenue. (O’Hara)

Prohibition of Public Funds for Lobbying (Opposed – Preemption)

HB 215 (Sabatini) would have prohibited a local government from using public funds to retain a lobbyist to represent the local government before the legislative or executive branch. (O’Hara)

State Ethics Reform (Neutral)

HB 7043 (Public Integrity & Ethics Committee) would have addressed public officer, public employee and third-party conduct regarding solicitation and negotiation of conflicting and potentially conflicting financial relationships, addressed post-service lobbying restrictions for certain state officers, and revised executive branch lobbyist registration requirements. (O'Hara)

Finance and Taxation

Implementing Bill: Property Assessed for Elevated Properties (Neutral)

CS/CS/SB 1186 (Brandes) and **CS/CS/HB 1379** (Chaney) would have implemented SJR 1182 or HJR 1377 if approved by 60% of voters at the next general election. The bills specified that changes to elevate certain homestead and non-homestead residential property do not increase the assessed value of the property under specific circumstances. Provisions of these bills were included in HB 7061 (page XX). (Hughes)

Government Property Tax Exemptions (Neutral)

SB 1702 (Hutson) and **HB 1555** (Harding) would have revised the types of lessees whose purposes and functions are deemed to be governmental, municipal, or public purposes. (Hughes)

Local Government Fiscal Transparency (Opposed – Mandate)

SB 154 (Diaz) would have amended multiple provisions related to local government financial transparency. The bill would have expanded public notice and public hearing requirements for local option tax increases, other than property taxes and taxes adopted by referendum and new long-term tax-supported debt issuances. The bill revises the local government reporting requirements for economic development incentives. (Hughes)

Nonprofit Property Tax Exemptions (Neutral)

CS/CS/SB 1214 (Gruters) and **CS/CS/HB 889** (Borrero) would have specified the conditions for retaining the ad valorem exemption of an exempt property. The bills would have required that revenue derived from the incidental use of the property must support the charitable, religious, scientific or literacy purpose that the property is used for. Provisions of these bills were included in HB 7061 (page XX). (Hughes)

Property Tax Exemption for Affordable Housing and Government (Supported)

SB 674 (Rodriguez) and **HB 563** (Rodriguez) would have authorized counties and municipalities to adopt ordinances to grant ad valorem tax exemptions to property owners whose properties are used for the government or affordable housing. (Hughes)

Property Tax Exemption: Nonprofit Homes for the Aged (Neutral)

CS/SB 1330 (Rodriguez) and **CS/HB 571** (Smith, D.) would have expanded the current exemption from ad valorem taxes for property used for nonprofit homes for the aged. (Hughes)

Rental of Homestead Property (Neutral)

SB 132 (Hutson) would have allowed the rental of a portion of a dwelling, claimed to be a homestead for tax purposes, while the dwelling is physically occupied by the owner does not constitute the abandonment of the dwelling as a homestead. (Hughes)

Tangible Personal Property Tax Returns (Neutral)

HB 1037 (Roth) and **SB 1210** (Baxley) would have authorized property owners of assessed property who have not filed personal property tax returns to qualify for tax exemption without filing an initial return. (Hughes)

Tax Administration (Neutral)

CS/HB 1241 (Stevenson) would have made various updates to the statutes administering numerous taxes. Of note, the bill required, rather than authorized, tax collectors to accept late payments of prepaid property taxes through July 31 and deletes a late payment penalty. Provisions of this bill was included in HB 7061 (page XX). (Hughes)

Taxation of Property Used for Agriculture (Neutral)

SB 516 (Rodriguez) and **HB 927** (Tuck) would have specified the methodology for the assessment of the structures and equipment used in aquaculture. The bills would have allowed the property owner to request removal of its agriculture classification if the tax assessed based on such methodology exceeds the tax assessed based on the value of the structures and equipment. (Hughes)

Transparency in Government Spending (Neutral)

CS/SB 506 (Garcia) and **CS/CS/HB 195** (Persons-Mulicka) would have required new reporting requirements for nongovernmental entities that receive a least 50 percent of their revenue from a governmental entity or expend at least \$750,000 of government funds in any fiscal year. The bills provided that, before receiving funds from a governmental entity, a nongovernmental entity that received state funds in the previous year must submit to the governmental entity an attestation verifying that the nongovernmental entity has submitted the required report. The bills specified that beginning January 15, 2022, a governmental entity may not expend, transfer or distribute funds to a nongovernmental entity until the nongovernmental entity has complied with the reporting and posting requirements. (Hughes)

Value of Timeshare Units (Neutral)

HB 1007 (Killebrew) and **CS/SB 1358** (Gruters) would have revised the method of determining the value of timeshare property by the county property appraiser. The bills would have required the county property appraiser to defer to the taxpayer for the determination of whether the number of resales is adequate. (Hughes)

Housing

State Funds (Supported)

HB 13 (Killebrew) and **SB 510** (Hooper) specified that funds deposited in the State Housing Trust Fund and the Local Government Housing Trust Fund may not be transferred or used for any other purpose. (Taggart)

Land Use and Comprehensive Planning

Ancillary Property Rights (Neutral)

CS/HB 1139 (Smith) and **CS/SB 1520** (Boyd) would have provided that a utility easement is an interest in real property and subject to certain actions unless otherwise provided in the instrument creating the easement. These bills would have revised rights that are not affected or extinguished by marketable

record titles and require persons with certain interests in land that may be extinguished by this act to file a specified notice to preserve their interests. (Cruz)

Other

Abandoned Residential Property (Supported)

HB 1393 (Davis) and **SB 1808** (Powell) would have revised the indication criteria for an “abandoned residential property” to make the process for abating nuisance properties easier and less costly to local governments. The bills revised the process for a local government to notify a mortgagee or mortgage servicer of a nuisance residential property and directs them to abate the nuisance until ownership of the property has been transferred through the foreclosure process. (Taggart)

Attorney General Designation of Matters of Great Governmental Concern (Opposed – Preemption)

CS/HB 1053 (Overdorf) and **CS/SB 102** (Burgess) would have the effect of limiting or prohibiting certain civil actions by local governments including recent class actions involving opioids, PFAS and predatory lending, by authorizing the Attorney General to take specified actions on civil matters deemed to be of “great governmental concern.” (O’Hara)

Deprivation of Rights by Public Officers and Employees (Neutral)

HB 261 (Rayner), **SB 670** (Jones) and **SB 1982** (Powell) would have created a new lawsuit against an officer, employee or agent of a political subdivision of the state for when they are acting under color of law and deprive someone's rights under the U.S. and state constitutions. The bills would have provided that claims may not be used as defense against liability and specifies circumstances under which an officer, employee or agent is immune. (Cruz)

Local Licensing (Opposed – Preemption)

HB 115 (Fabricio) would have provided that an individual with a valid active local license may work in any local government jurisdiction without having to obtain additional local licensing, take additional examinations or pay additional local licensing fees. (Cruz)

Naming Highways (Neutral)

SB 646 (Taddeo) and **HB 813** (Chambliss) would have required counties and municipalities to rename their respective portions of Dixie Highway, Old Dixie Highway, North Dixie Highway or South Dixie Highway as “Harriet Tubman Highway.” (Taggart)

OGSR/Unsolicited Proposals (Neutral)

SB 7050 (Community Affairs) would have extended a provision relating to an exemption from public records requirements for unsolicited proposals related to public-private partnerships from sunset. (Cruz)

Prohibited Governmental Transactions with Technology Companies and for Chinese Products (Opposed – Preemption)

HB 439 (Fine) and **SB 810** (Gruters) would have prohibited an agency or local governmental entity from purchasing or entering into a contract for any good made in or that contains at least 25% or more parts that were produced in China. The bills would have also prohibited a local governmental entity from purchasing any good or service made, sold or provided by Facebook, Twitter, Amazon, Apple or Alphabet, Inc. (Taggart)

Regional Planning Councils (Opposed)

CS/SB 62 (Bradley) would have eliminated the role of regional planning councils in the state. (Cruz)

Retail Sale of Domestic Dogs and Cats (Neutral)

HB 45 (Killebrew) and **SB 1138** (Brodeur) would have prohibited a for-profit business from selling domestic cats and dogs. Local governments would have still been authorized to adopt ordinances that are more stringent than the bill. (Taggart)

Specialty Contracting Services (Neutral)

SB 338 (Gruters) and **CS/HB 1431** (McClure) would have revised the type of buildings for which individuals who are not required to obtain certain registrations or certifications may perform contracting services without a local license. The specialty contracting services specified included the construction, remodeling, repair or improvement of commercial or residential swimming pools, hot tubs or spas, or interactive water features. (Taggart)

Supermajority Vote for Legislative Preemption (Supported)

SB 540 (Farmer) would have proposed an amendment to the Florida Constitution that would require any general law that preempts a subject of legislation to the state to pass by a two-thirds vote of each house of the Legislature. (O'Hara)

Technology Transparency (Neutral)

HB 7013 (Commerce Committee) would have prohibited social media platforms from "deplatforming" statewide candidates and allows the Florida Elections Commission to fine a social media platform \$100,000 per day for deplatforming statewide candidates and \$10,000 per day for all other candidates. In addition, if a social media platform provided free advertisements for a candidate, it would have been considered an in-kind contribution and the candidate must have been notified. **SB 520** (Burgess) would have required social media websites to notify individual and business users within 30 days after suspending their account. (Taggart)

Tethering of Domestic Dogs and Cats (Neutral)

HB 177 (Slosberg) and **CS/SB 650** (Taddeo) would have prohibited the unattended tethering of domestic dogs and cats. The bills also prohibited outdoor tethering of dogs and cats during severe weather. Several exemptions were listed in the bills that would have allowed dog and cat owners to tether their animals: during organized public events at which the animal is a participant; for agricultural and hunting purposes; while being treated by a veterinarian, groomed or boarded; during law enforcement training; and while being cared for as part of a rescue operation. (Taggart)

Parks and Recreation

Smoking (Supported)

CS/SB 334 (Gruters) and **HB 239** (Altman) would have authorized cities and counties to restrict smoking within the boundaries of any public beach or park they own. The bills specified that municipalities could restrict smoking within the boundaries of a beach or park that is owned by the county, but located within the city, as long as it does not conflict with any county ordinance. Additionally, the bills prohibited smoking in state parks. **CS/SB 334** would have excluded cigars and pipe tobacco. (Taggart)

Personnel

Cost-of-living Adjustment of Retirement Benefits (Neutral)

HB 1023 (Skidmore) and **SB 1310** (Polsky) would have specified the minimum factor used to calculate the cost-of-living adjustment for certain retirees and beneficiaries of the Florida Retirement System. (Hughes)

Firefighters' Bill of Rights (Neutral)

SB 970 (Hooper) and **CS/CS/HB 313** (Busatta Cabrera) would have extended certain provisions of the Firefighters' Bill of Rights to questioning conducted under an informal inquiry. The bills specified that an informal inquiry does not include routine work-related discussions, such as safety sessions or normal operational fire debriefings. (Hughes)

Florida Retirement System (Neutral)

HB 1327 (Alexander) and **SB 1632** (Ausley) would have revised the definition of the term "continuous service" for purposes of the Florida Retirement System. The bills also revised an exception to the employment after retirement limitations for retired law enforcement officers who are reemployed with a covered employer. (Hughes)

Florida Retirement System Investment Plan (Neutral)

SB 7016 (Governmental Oversight and Accountability) would have provided that the State Board Administration may not pay benefits to a member of the Florida Retirement System who has committed certain criminal offenses prior to retirement. (Hughes)

Florida Retirement System Reform (Neutral)

CS/SB 84 (Rodrigues) would have closed the pension plan (defined benefit) to new enrollees, except for members of the Special Risk Class, and requires all new enrollees to participate in the investment plan (defined contribution) effective July 1, 2022. The bill would not have impacted the rights of any current Florida Retirement System enrollee to select participation in the pension plan or the investment plan. Changes included in the bill pertain only to FRS members initially enrolled in the system on or after July 1, 2022.

Beginning July 1, 2022, the bill would have increased the employer-paid assessment for administrative and educational services by one basis point. This assessment was expected to generate roughly \$3.4 million annually for the State Board of Administration to offset additional costs associated with the increase in the number of members participating in the investment plan and an increase in the workload relating to educational services offered to FRS members. (Hughes)

FRS: Special Risk (Neutral)

SB 736 (Jones) would have added 911 public safety telecommunicators to the special risk class of the Florida Retirement System and requires such members to have their retirement benefits calculated in accordance with provisions for Regular Class members. The bill specified the required employer retirement contribution rates for the new membership subclass of 911 public safety telecommunicators. (Hughes)

FRS: Special Risk Class (Neutral)

SB 230 (Hutson) would have added employees of water, sewer or other public works departments of participating employers who work in hazardous conditions to the Special Risk Class of the Florida Retirement System. (Hughes)

Law Enforcement Officers' and Correctional Officers' Rights (Neutral)

HB 6057 (Hardy) would have repealed the current section of law relating to the investigation process of law enforcement officers and correctional officers otherwise known as the "Police Bill of Rights." The bill also made several procedural changes for the receipt, investigation and determination of complaints against a law enforcement officer or correctional officer. (Hughes)

Medical Marijuana Public Employee Protection (Neutral)

SB 692 (Polsky) and **HB 335** (Duran) would have prohibited a public employer from taking adverse personnel action against an employee or a job applicant who is a qualified patient using medical marijuana. However, an employer may have taken appropriate adverse personnel action against any employee if the employer established by a preponderance of the evidence that the lawful use of medical marijuana was impairing the employee's ability to perform his or her job responsibilities. The bills would have required an employer that has a drug testing policy to provide written notice of an employee's or job applicant's right to explain a positive marijuana test result within a specified time frame. (Hughes)

Prohibited Discrimination (Neutral)

SB 476 (Bracy) and **HB 179** (Brown) would have amended the Florida Civil Rights Act of 1992 to incorporate certain hairstyles as protected from discrimination. The bills prohibited employers from discriminating against an individual for having a protected hairstyle. (Hughes)

911 Public Safety Telecommunicators (Neutral)

HB 1171 (Willhite) and **SB 1224** (Jones) would have defined "first responder" to include 911 public safety telecommunicators. The bills expanded eligibility for certain workers' compensation benefits and revise criteria in the Special Risk Class of Florida Retirement System to include 911 public safety telecommunicators. (Hughes)

Wage and Employment Benefits (Support)

SB 304 (Taddeo) and **HB 6031** (Smith, C.) would have repealed the preemption on political subdivisions' ability to establish a minimum wage other than the state or federal minimum wage. (Hughes)

Public Records and Public Meetings

Electronic Payment of Governmental Fees (Neutral)

SB 298 (Taddeo) would have required municipalities to provide an electronic payment option for any fee related to a public records request. (Taggart)

Local Government Meetings During Declared Emergencies (Supported)

HB 1217 (Daley) and **SB 1494** (Cruz) would have suspended the physical quorum requirement for local governmental bodies during a declared state of emergency. The bills would have allowed meetings of any board or commission to be held via telephone, real-time videoconferencing or similar real-time electronic or video communication for no more than six months from the start of the declared state of emergency, unless extended by the governor by executive order. (Taggart)

Public Meeting Requirements for Law Enforcement Agencies (Neutral)

SB 456 (Bracy) would have required meetings between the chief executive officer of a municipality or its representative and the municipality's governing body to discuss disciplinary procedures for a law enforcement officer to be subject to Florida's public meeting requirements. (Taggart)

Public Records Exemption for Members of the Legislature and the Cabinet (Neutral)

CS/HB 1207 (Beltran) and **CS/SB 1488** (Stargel) would have exempted from public records the home address, telephone numbers and the dates of birth of current members of the Legislature and Cabinet officers. The bills would have also exempted the information of their spouses and children. (Taggart)

Public Safety

Body Camera Recordings by Law Enforcement Officers (Opposed – Mandate)

SB 732 (Bracy) would have increased the amount of time a law enforcement agency must retain body camera recordings from 90 days to 365 days. (Taggart)

Citizen Review Boards (Neutral)

SB 450 (Bracy), **SB 446** (Bracy) and **HB 1147** (Benjamin) would have required each county to establish a citizens review board to independently investigate each law enforcement agency within the county. The bills would have also required one member of the citizens review board to participate in a law enforcement agency's investigative team for any complaints related to use of force, abuse of authority, discourtesy and discriminatory language. (Taggart)

Concealed Carry of Firearms by First Responders (Oppose – Mandate)

HB 877 (Bell) would have authorized first responders (EMTs and paramedics) to carry a concealed firearm while performing his or her duties. The bill would have required the first responder to hold a valid concealed carry license and complete an extensive training program. The bill also required the first responder to complete a psychological evaluation prior to receiving approval to carry a firearm while on duty. The bill mandated that the employment agency must fund the trainings required under the bill but does not designate a funding source. (Taggart)

Concealed Weapons and Firearms (Neutral)

HB 213 (Andrade) would have preempted Cabinet members from adopting any regulations relating to firearms and ammunition. (Taggart)

Investigations of Officer-Involved Deaths (Neutral)

SB 438 (Bracy) would have required law enforcement agencies to have a written policy regarding the investigation of officer-involved deaths. The bill also required law enforcement agencies to use at least two investigators who are not employed by the agency. Traffic-related, officer-involved deaths would have been required to be investigated by a crash reconstruction unit not employed by the agency. Reports by the investigators would have been provided to the state attorney in the judicial circuit where the officer-involved death occurred. (Taggart)

Law Enforcement Agency Standards (Neutral)

HB 647 (Davis) and **SB 942** (Gibson) would have required the Florida Department of Law Enforcement to adopt rules establishing minimum requirements for policies of law enforcement agencies relating to demilitarization, use of force, intelligence-led policing, officer qualifications and canine units. The bills

also required FDLE to create a model document for law enforcement agencies relating to several law enforcement procedures. (Taggart)

Law Enforcement Equipment (Opposed – Preemption)

HB 187 (McCurdy) and **SB 878** (Thurston) would have prohibited law enforcement agencies from purchasing certain surplus military equipment. The bills also prohibited law enforcement agencies from using tear gas and kinetic impact munitions on an assembly or protest unless the gathering has been declared unlawful. (Taggart)

Law Enforcement Officers (Supported)

HB 197 (Gregory) would have added service as a law enforcement officer as grounds for increased criminal penalties for certain criminal offenses that occur due to a prejudice because of their service as a law enforcement officer. The bill would have also authorized agencies to include crisis intervention training in the course curriculum for initial certification training. (Taggart)

Law Enforcement Officer Body and Vehicle Dash Cameras (Opposed – Mandate)

SB 452 (Bracy) and **HB 569** (Chambliss) would have required law enforcement agencies to require officers to wear body cameras and use vehicle dash cameras while on duty. The bills did not provide a funding source for law enforcement agencies to comply with the bill. (Taggart)

Law Enforcement Officer Use of Force (Neutral)

HB 577 (Omphroy) would have required law enforcement agencies to maintain a database tracking excessive use of force incidents. The bill would have provided for suspension of funding for local law enforcement agencies that fail to comply with data collection and reporting requirements. The bill also required each law enforcement agency to annually review and revise its use of force policy and require each of its officers to attend a training class that reviews the policy. Also included in the bill was an annual reporting requirement to the Florida Department of Law Enforcement and direction for the Department to maintain the reports in a publicly accessible format. (Taggart)

Mental Illness Training for Law Enforcement Officers (Neutral)

HB 879 (Hunschofsky) and **CS/SB 1192** (Powell) would have required the Department of Law Enforcement to establish a continued employment training component relating to mental illness. The component may have counted toward a law enforcement officer's hours requirement for annual training. (Taggart)

Minimum Qualifications for Law Enforcement or Correctional Officers (Neutral)

HB 505 (McCurdy) and **SB 992** (Powell) would have provided additional criminal history screening standards for law enforcement or correction officer applicants. The bills required applicants to pass psychological screening and provide names of prior law enforcement agency employers. (Taggart)

Officer Training for Initial Certification (Neutral)

SB 464 (Bracy) would have required the Criminal Justice Standards and Training Commission to establish and maintain standards for instruction of officers in implicit bias and de-escalation of conflict to minimize violence. The training would have been required for all officers to obtain initial certification. (Taggart)

Photographic Enforcement of School Zone Speed Limits (Neutral)

HB 357 (Duran) and **SB 1474** (Rodriguez) would have authorized a county or municipality to contract with a vendor to install cameras in school speed zones to enforce speed limits. Within the first 30 days after such a camera or cameras are installed in a school speed zone, a motor vehicle operator found to have violated will be issued a warning and will not be liable for the civil penalty. (Taggart)

Public Safety Emergency Communications Systems (Opposed – Preemption)

HB 587 (Snyder) and **SB 1902** (Rodrigues) would have revised requirements for minimum radio signal strength for fire department communications; required the state fire marshal to adopt minimum radio coverage design criteria for public safety emergency communications systems and minimum standards for interior radio coverage and signal strength in buildings; required a local jurisdiction's public safety emergency communications system be certified as meeting or exceeding certain criteria before new and existing buildings are required to install or to be assessed for two-way radio communications enhancement systems; required local jurisdictions to produce radio coverage heatmaps and prohibit local jurisdictions from withholding certificates of occupancy under certain circumstances. (Taggart)

Repeal Preemption of Firearms and Ammunition (Supported)

SB 672 (Taddeo) and **HB 6033** (Daley) would have repealed the current statutory preemption prohibiting cities and counties from regulating firearms and ammunition. (Taggart)

School Bus Safety (Neutral)

HB 745 (Slosberg) and **SB 1050** (Berman) would have authorized school districts to install cameras on school busses to aid in the enforcement of cars stopping while school busses are stopped. The bills would have authorized counties and municipalities to have traffic enforcement officers issue citations to those who violate the law. (Taggart)

Surrendered Newborn Infants (Neutral)

CS/HB 133 (Harding) and **CS/SB 122** (Baxley) would have authorized a hospital, emergency medical services station or a fire station that is staffed 24 hours per day to utilize a newborn safety device to accept surrendered newborn infants if the device meets certain requirements. The bills also would have extended the allowable age of relinquishment from 7 days to 30 days old. (Taggart)

Traffic and Pedestrian Safety (Neutral)

CS/SB 1412 (Perry) and **HB 1113** (Fine) would have required that crosswalks located at any place other than an intersection of a public street, highway or road be controlled by pedestrian and traffic signals that meet requirements of the Florida Department of Transportation Manual on Uniform Traffic Control Devices. The bills would have required signs listing the duties of pedestrians using the crosswalks. The bills also required a traffic engineering study to be conducted by a Florida licensed professional engineer who recommends the installation. The bills would have directed the Department of Transportation to submit a request to the federal government for authorization in replacing the yellow rectangular rapid flashing beacons with red beacons. If the federal government denied the request, local governments would have been required to remove all the yellow rectangular rapid flashing beacon traffic control devices from each crosswalk. (Taggart)

Traffic Infraction Detectors (Opposed – Preemption)

HB 6009 (Sabatini) would have preempted cities, counties and the Florida Department of Highway Safety and Motor Vehicles from installing, maintaining or utilizing red light cameras effective July 1, 2024. (Taggart)

Use of Wireless Communications Devices While Driving “Hands-Free” (Neutral)

HB 91 (Slosberg) would have prohibited a person from operating a motor vehicle while holding or touching a wireless communication device. This bill did provide several exceptions such as first responders performing in their official capacity or drivers accessing safety-related information including emergency, traffic or weather alerts. (Taggart)

Short-Term Rentals

Short-Term Rentals (Supported)

HB 1481 (Goff-Marcil) and **SB 1988** (Pizzo) would have prohibited local governments from prohibiting the siting of vacation rentals from their entire jurisdiction. The bills would have restored authority to local governments to adopt and apply zoning and land development regulations to vacation rentals. The bills would have maintained the June 1, 2011, grandfather date on local ordinances adopted prior to then and specify that those ordinances can be amended without penalty. The bills would have improved the state licensing process by requiring applicants to do the following:

- Provide proof of inspection and compliance with local building, zoning and fire safety codes reflecting a change in use from a single-family or multi-family residence to a transient public lodging establishment.
- Provide proof that the underlying homeowner’s insurance policy allows the home to be used as a vacation rental.
- Provide a signed affidavit from the chief executive of the municipality confirming the operation of a vacation rental is allowed at that address.
- Provide proof that the commercial mortgage is not in conflict with any prohibitions related to commercial activity in single or multi-family residential zones. (Taggart)

Vacation Rentals (CS/CS/SB 522 Neutral – CS/HB 219 Opposed – Preemption)

CS/CS/SB 522 (Diaz) and **CS/HB 219** (Fischer) would have changed current law relating to vacation rentals, also known as short-term rentals (STRs). The bills would have:

- Clarified the definition of an advertising platform to capture online marketplaces.
- Preempted to the state the regulation of advertising platforms.
- Allowed a “grandfathered” city to amend its short-term rental regulations if the amendment makes the regulation less restrictive.
- Required the Department of Business and Professional Regulation to maintain vacation rental property license information in an accessible electronic format.
- Required advertising platforms to verify a property’s license number prior to publishing its advertisement on its platform and every quarter thereafter.
- Required advertising platforms to quarterly provide the department with the physical address of the vacation rental properties that advertise on their platforms.
- Imposed a duty on advertising platforms to collect and remit taxes in relation to the rental of a vacation rental property through its platform.
- Established requirements that advertising platforms adopt an anti-discrimination policy and inform their users of the public lodging discrimination prohibition found in current law.

- Clarified that the provision of the bill shall not supersede any current or future community association-governing document.
- Required sexual predators to notify local law enforcement if they will be staying for 24 hours or more in a short-term rental.

Preemption provisions included in CS/HB 219 would have:

- Preempted to the state the regulation of STRs, including licensure and inspections.
- Undone any local registration, inspection or licensing requirements specific to STRs adopted since 2014.
- Required that any ordinances (noise, parking, trash, etc.), must be applied uniformly to all residential properties, regardless of how the property is being used. (Taggart)

Telecommunications

Broadband Internet (Supported)

CS/SB 2004 (Burgess) would have required the Florida Office of Broadband's strategic plan to include short-term and long-term goals for increasing the availability of and access to broadband internet service in this state. The bill required the updated plan to be submitted to the governor, the chief justice of the Supreme Court and the Legislature by June 30, 2022, and updated biennially. The bill as amended appropriated \$1.4 million in nonrecurring funds for fiscal year 2021-2022 for the purpose of commissioning a broadband feasibility study. (Hughes)

Broadband Internet Deployment (Supported)

CS/HB 753 (Clemons) would have created the Florida Broadband Opportunity Program within the Office of Broadband within the Department of Economic Opportunity to award grants to applicants who seek to expand broadband internet service to unserved areas of the state. The bill authorized certain entities, such as political subdivisions, to apply for grants that are to be used for the installation and deployment of infrastructure that supports broadband internet service. The bill only allowed the Office to award grants to governmental entities if no broadband internet service providers are deployed in that area. The bill provided application requirements, the criteria for evaluating applications and that the grant award combined with other government funding may not fund more than 50% of the project's total costs. Additionally, the bill authorized existing broadband Internet providers to challenge grant applications if service is already provided or is planned in the area at issue. Provisions of this bill were included in CS/CS/HB 1239 (page XX). (Hughes)

Broadband Internet Service (Supported)

CS/CS/SB 1560 (Ausley) and **HB 1339** (Goff-Marcil) would have expanded the duties of the Florida Office of Broadband within the Department of Economic Opportunity. The bills expanded the Office's local technology planning teams' duties to focus on rural, unserved and underserved areas. CS/CS/SB 1560 creates the Broadband Opportunity Program, administered by the Office, to award grants for the expansion of broadband Internet service in unserved and underserved areas of Florida. The program was subject to appropriation. Provisions of these bills were included in CS/CS/HB 1239 (page XX). (Hughes)

Communications Services (Supported)

HB 6045 (Eskamani) would have repealed the Advanced Wireless Infrastructure Deployment Act that relates primarily to the installation of small wireless facilities in public rights of way. (Hughes)

Tort Liability

Sovereign Immunity (Opposed)

HB 1129 (Fernandez-Barquin) and **SB 1678** (Diaz) would have increased the statutory limits on liability for tort claims against government entities. Current law sets the statutory limits at \$200,000 per claim and \$300,000 per incident. The bills were seeking to increase these limits to \$500,000 per claim and \$1 million per incident. The legislation would have tied these limits to a consumer price index so they would automatically increase with inflation every year. The bills would have set limitations of liability to take effect on the date a final judgment is entered and therefore could apply retroactively to pending claims. (Cruz)

Transportation

Automatic License Plate Reader Systems (Neutral)

HB 1039 (Plakon) and **SB 1230** (Rodriguez) would have required the Department of Highway Safety and Motor Vehicles to establish an automatic license reader system under the newly created Uninsured Vehicle Enforcement Program. Additionally, a county or municipality in coordination with the Department could have authorized by contract or interlocal agreement the installation of automatic license plate reader systems on streets and highways under its jurisdiction. (Taggart)

Electric Vehicle (Supported)

CS/SB 138 (Brandes) and **HB 817** (Toledo) would have created the Electric Vehicle Infrastructure Grant Program to provide financial assistance to municipalities and other entities for the installation of electric vehicle charging infrastructure. The bills would have authorized the Department of Transportation to develop and publish criteria for the grant application. The bills also would have authorized the Department of Transportation to establish by rule the maximum weight and speed of a personal delivery device. (Taggart)

Electric Vehicles Fees (Supported)

SB 1276 (Hooper) would have required the Department of Highway Safety and Motor Vehicles to publish notice when electric and hybrid vehicles make up 5% or more of the total number of vehicles registered in this state. The fees for electric and hybrid vehicles would have begun after the Department publishes such notice. These fees would have been adjusted at certain rates based on the Consumer Price Index. The bill also would have required that proceeds of certain fees be deposited into the State Transportation Trust Fund. (Taggart)

Fees/Electric Vehicle (Supported)

CS/CS/SB 140 (Brandes) and **HB 819** (Learned) would have created additional fees and a licensing tax for electric and hybrid vehicles. Sixty-four percent of the proceeds from these additional fees and taxes would have been deposited into the State Transportation Trust Fund, and 36% of the proceeds would have gone to the county where the vehicle was registered. (Taggart)

Multipassenger All-terrain Vehicles (Neutral)

SB 1896 (Wright) would have allowed a local governmental entity the authority to enact ordinances relating to multipassenger all-terrain vehicle operation and equipment that are more restrictive than

those enumerated in current law. The bill would have required the local governmental entity to consult with the Department of Transportation before adopting any ordinance. (Taggart)

State Preemption of Seaport Regulations (Opposed – Preemption)

CS/CS/CS/HB 267 (Roach) and **CS/CS/CS/SB 426** (Boyd) related to the preemption of seaport regulations. CS/SB 426 would have prohibited a local ballot initiative or referendum from restricting maritime commerce in the seaports of this state including, but not limited to, restricting such commerce based on several factors. CS/HB 267 provided that municipal government may not restrict or regulate commerce in the seaports including, but not limited to, regulating or restricting a vessel's type or size; source or type of cargo; or number, origin or nationality of passengers. Similar provisions were amended onto **CS/CS/CS/SB 1194** see page ___ for more information. (Taggart)

Tampa Bay Area Regional Transit Authority (Neutral)

SB 1130 (Brandes) would have dissolved the Tampa Bay Area Regional Transit Authority. The bill would have required the Authority to discharge its liabilities and settle and close its activities and affairs. The bill also would have provided for the distribution of the Authority's assets or the proceeds of such assets, such that each local general-purpose government represented on the Authority's board receives a distribution generally in proportion to each entity's contribution to the acquisition of the assets. (Taggart)

Tampa-Hillsborough County Expressway Authority (Neutral)

CS/HB 1283 (Beltran) and **SB 1660** (Burgess) would have renamed the Tampa-Hillsborough County Expressway Authority as the West Florida Expressway Authority. The West Florida Expressway Authority would have assumed the governance and control of the expressway system operated by the former Tampa-Hillsborough County Expressway Authority including its assets, personnel, contracts, obligations, liabilities, facilities and tangible and intangible properties. (Taggart)

Traffic Offenses (Supported)

SB 278 (Baxley) and **HB 1643** (McClain) would have provided criminal penalties for a person who commits a moving violation that causes serious bodily injury to or causes the death of a vulnerable road user. (Taggart)

Utilities and Natural Resources

Beach Funding (Neutral)

SB 1240 (Hutson) would have provided a specified annual appropriation to fund beach and inlet projects. (O'Hara)

Bottled Water (Neutral)

SB 1774 (Cruz) would have required the Department of Environmental Protection to monitor the consumptive use permits for all bottled water companies. (O'Hara)

Bottled Water Companies/Fees (Neutral)

SB 1776 (Cruz) would have required the Department of Environmental Protection to charge bottled water companies a per gallon fee. (O'Hara)

Bottled Water Excise Tax (Neutral)

SB 652 (Taddeo) and **HB 1237** (Casello) would have imposed an excise tax upon bottled water operators. (O'Hara)

Coastal Construction and Preservation (Neutral)

HB 1133 (Leek) and **SB 1504** (Wright) would have revised provisions relating to state permits for coastal armoring. (O'Hara)

Conservation Easements (Supported)

HB 779 (Altman) and **SB 1730** (Stewart) would have revised provisions relating to income from conservation easements and ad valorem tax exemptions for such easements. (O'Hara)

Critically Eroded Beaches (Supported)

SB 1690 (Hutson) would have required the Department of Environmental Protection to update its list and report on critically eroded beaches and the associated comprehensive long-term management plans to include certain beaches eroded by recent hurricanes. (O'Hara)

Disposal of Food Waste Materials (Neutral)

HB 1369 (Driskell) and **SB 1764** (Cruz) would have required certain entities to recycle food waste. (O'Hara)

Energy (Neutral)

HB 993 (Skidmore) and **SB 1362** (Polsky) would have required the Division of Emergency Management's statewide emergency shelter plan to identify the capacity of backup power generation systems and fuel types available at each shelter. The bills would have required the Department of Agriculture to develop rules for reducing greenhouse gas emissions. In addition, the bills would have required the Department to develop and maintain a greenhouse gas registry and inventory. (O'Hara)

Energy Security and Disaster Resilience Pilot Program (Neutral)

HB 1105 (Goff-Marcil) and **SB 1360** (Cruz) would have created a pilot program to provide for the energy needs of critical disaster resilience facilities and study the effectiveness of grants for distributed energy generation and energy storage technologies. The bills would have directed the Department to conduct a study on the effectiveness of renewable energy generation and storage. (O'Hara)

Energy 2040 Task Force (Supported)

SB 136 (Brandes) would have created the Energy 2040 Task Force within the Florida Public Service Commission to project the state's electric energy needs over the next 20 years and determine how to best meet those needs while increasing competition and consumer choice. (O'Hara)

Everglades Protection Area (Neutral)

HB 333 (Aloupis) and **SB 722** (Rodriguez) would have prohibited the drilling of wells or use of structures for the production of gas or petroleum products within the Everglades Protection Area. (O'Hara)

Florida Forever Bonds (Supported)

HB 1173 (Roth) and **SB 1480** (Brodeur) would have extended the retirement date of bonds issued to fund the Florida Forever Act from December 2040 to December 2054. (O'Hara)

Greenhouse Gas Emissions (Neutral)

SB 1236 (Rodriguez, A.) and **HB 617** (Melo) would have prohibited state agencies from adopting or enforcing state and regional programs to regulate greenhouse gas emissions without specific legislative authorization. (O'Hara)

Implementation of the Recommendations of the Blue-Green Algae Task Force (Neutral)

CS/SB 1522 (Stewart) and **HB 1225** (Goff-Marcil) would have required the Department of Environmental Protection to implement a stormwater inspection and monitoring program by January 2022 to identify improperly functioning or failing systems. The bills would have required owners of on-site sewage treatment and disposal systems to have the system inspected once every five years beginning July 2024. (O'Hara)

Infrastructure Solutions/Climate Resilience (Supported)

SB 1190 (Farmer) proposed a Senate Joint Resolution expressing the Legislature's Supported for investment in resilient infrastructure solutions, projects and policy proposals to Supported long-term climate resilience. (O'Hara)

Inland and Coastal Flood Control Funding Assessment (Supported)

HB 901 (Bartleman) and **SB 1252** (Berman) would have required the Office of Economic and Demographic Research to include within its annual assessment of Florida's water resources an analysis of future expenditures by local, regional and state governments necessary to improve resilience to flooding. (O'Hara)

Insurance-Based Climate Change Task Force (Supported)

SB 1872 (Rouson) and **HB 1623** (Diamond) would have directed the Commissioner of Insurance Regulation to convene a Climate and Resiliency Task Force to consider the impact of climate change on Florida's insurance market. (O'Hara)

Land Acquisition Trust Fund (Supported)

SB 1510 (Stewart) and **HB 1211** (Altman) would have extended the date of retirement of bonds issued for the Florida Forever Program from December 2040 to December 2054. The bills would have provided for \$100 million to be appropriated annually from the Land Acquisition Trust Fund to the Florida Forever Trust Fund. (O'Hara)

Land Acquisition Trust Fund (Supported)

HB 1561 (Roth) would have required \$100 million to be appropriated annually from the Land Acquisition Trust Fund to the Florida Forever Trust Fund. (O'Hara)

Legal Rights of the Natural Environment (Neutral)

HB 6049 (Eskamani) would have repealed provisions of law prohibiting local governments from recognizing or granting certain legal rights to the natural environment or granting such rights relating to the natural environment to a person or political subdivision. (O'Hara)

Preemption of Over-the-counter Drugs and Cosmetics (Supported)

HB 6041 (Eskamani) and **SB 1174** (Stewart) would have repealed current law provisions preempting the regulation of over-the-counter proprietary drugs and cosmetics to the state. (O'Hara)

Preemption of Recyclable and Polystyrene Materials (Supported)

HB 6027 (Grieco) and **SB 594** (Stewart) would have removed the current law prohibition of local laws relating to regulation of auxiliary containers, wrappings and disposable plastic bags. The bills would have repealed the current law preemption of local laws relating to the use or sale of polystyrene products. (O'Hara)

Preemption of Tree Pruning, Trimming and Removal (Supported)

HB 6023 (Eskamani) and **SB 596** (Stewart) would have repealed current law provisions preempting specified local government regulations relating to tree pruning, trimming and removal on residential property. (O'Hara)

Private Docks (Neutral)

SB 994 (Brodeur) would have modified current law to clarify that a private residential multifamily dock or pier is included within certain exemptions from state permits. (O'Hara)

Property Assessed Clean Energy Programs (Supported)

CS/HB 387 (Fine) and **CS/SB 1208** (Rodriguez, A.) would have substantially amended current law provisions relating to Property Assessed Clean Energy programs. The bills defined terms relevant to PACE programs including commercial and residential property and included additional requirements on PACE administrators and contractors relating to consumer protection. (O'Hara)

Public Financing of Potentially At-Risk Structures (Neutral)

SB 1550 (Rodriguez) would have expanded current law requirements to conduct a Sea Level Impact Projection Study for publicly financed construction projects in coastal building zones to include certain inland areas. (O'Hara)

Recyclable Materials (Supported)

SB 1348 (Polsky) and **HB 1563** (Mooney) would have required the Department of Environmental Protection to review and update its 2010 Retail Bags Report on the regulation of auxiliary containers, wrappings and disposable plastic bags. The substance of this bill was added to **CS/CS/SB 694**, which passed. (O'Hara)

Renewable Energy (Opposed – Mandate)

SB 208 (Brandes) and **HB 775** (Omphroy) would have allowed business owners to install and operate a renewable energy source device on their property and sell the electricity generated from the device to adjacent businesses. (O'Hara)

Renewable Energy (Opposed – Preemption)

SB 1960 (Bean) would have provided a process for siting solar facilities and restricted local governments' authority to prohibit or impose requirements on such facilities. Similar language is included in **CS/CS/SB 896**, which passed. (O'Hara)

Renewable Energy Sources (Neutral)

SB 1718 (Berman) and **HB 1611** (Hardy) would have authorized public schools, businesses, and public entities to install or operate a renewable energy source device and would have provided that financing arrangements and sales of electricity generated from the device are not considered retail sales of electricity. The bills would have required electric utilities to provide meter aggregation to public schools and public entities under specified circumstances. (O'Hara)

Residential Home Protection (Supported)

SB 916 (Brodeur) would have amended current law provisions that prohibit local governments from requiring permits for the removal of "dangerous" trees on residential property to clarify various terms and eliminate loopholes. (O'Hara)

Resiliency (Supported)

SB 514 (Rodrigues) and **HB 315** (LaMarca) would have established the Statewide Office of Resiliency within the Executive Office of the Governor and would have created the Statewide Sea-Level Rise Task Force to recommend consensus projections of anticipated sea-level rise and flooding impacts along the state's coastline. (O'Hara)

Sanitary Sewer Lateral Inspection Programs (Neutral)

CS/SB 1058 (Burgess) and **CS/HB 773** (McClure) would have amended current law that authorizes municipalities and counties to create an evaluation and rehabilitation program for sanitary sewer laterals on private property for the purpose of reducing leaks. The revisions would have clarified the responsibilities of local governments and property owners. (O'Hara)

Soil and Groundwater Contamination (Neutral)

CS/SB 1054 (Broxson) and **HB 705** (Andrade) would have addressed per- and polyfluoroalkyl substances (PFAS) by requiring the Department of Environmental Protection to adopt rules establishing authorized limits for PFAS in soil and groundwater and providing liability protections for property owners working in good faith to remediate property. (O'Hara)

Solar Electrical Generating Facilities (Opposed – Preemption)

SB 1008 (Hutson) and **HB 761** (Overdorf) would have provided that solar facilities are permitted (as-of-right) uses in local government comprehensive agricultural land use categories and certain agricultural zoning districts within unincorporated areas. Similar language is included in **CS/CS/SB 896**, which passed. (O'Hara)

State Renewable Energy Goals (Neutral)

HB 283 (Eskamani) and **SB 720** (Berman) would have prohibited the exploration or production of petroleum products in the state. In addition, the bills would have directed the the Department of Agriculture and Consumer Services to develop a statewide plan to generate 100% of the electricity used in the state from renewable energy by 2040 and for the state to have net zero carbon emissions statewide by 2060. (O'Hara)

Tree Pruning, Trimming or Removal on Residential Property (Opposed – Preemption)

SB 1396 (Gruters) and **HB 1167** (Snyder) would have expanded the current law preemption of local government regulations pertaining to "dangerous" trees on residential property by expanding the definition of "residential property" to include manufactured or modular homes, mobile home parks, duplexes, triplexes, quadruplexes, condominium units or cooperative units. (O'Hara)

Utility Customer Assistance Funds (Neutral)

SB 1860 (Jones) and **HB 1435** (Smith, C.) would have provided eligibility criteria for utilities to receive customer assistance funds, specified criteria for a utility's COVID-19 relief repayment plan, and required utilities to provide an accounting report to the Department of Agriculture and Consumer Services. (O'Hara)

Well Stimulation (Neutral)

SB 546 (Farmer) and **HB 1575** (Jenne) would have prohibited fracking in the state. (O'Hara)

DRAFT



CITY OF DAYTONA BEACH SHORES

"Life Is Better Here"

Office of the City Manager

Phone (386) 763-5373 Fax (386) 763-5360

MEMORANDUM

DATE: June 17, 2021

TO: City Council: Mayor Nancy Miller; Vice Mayor Mel Lindauer,
Council Member Rick Frizalone; Council Member Richard Bryan,
and Council Member Michael Politis

FROM: Michael T. Booker, City Manager *mtb*

SUBJECT: City Manager's Report – June 22, 2021

Express Care:

- On Wednesday, June 16, the Mayor, Senior Staff, and I met with representatives from Noon Health. Noon will be operating and staffing the health care side of the new walk-in clinic. Halifax Health will handle the x-ray/imaging operations. Hours of operation will be:

Monday – Thursday	8:00 a.m.	-	8:00 p.m.
Friday	8:00 a.m.	-	6:00 p.m.
Saturday – Sunday	9:00 a.m.	-	4:00 p.m.

- The facility will be officially open on July 1. This has been years in the making and I would like to personally thank Billie Wheeler for putting Halifax Health in touch with the City to make this facility a reality.

Treasure Island:

- The City is actively pursuing the owners of Treasure Island (Acres Capital) to honor their agreement to maintain the structure in a safe manner. Currently, Acres has failed to keep their end of the agreement. Thus, the property will be taken to the City Magistrate to declare it an unsafe structure and to pursue a remedy. Fines continue to accrue at this time.



CITY COUNCIL AGENDA MEMORANDUM

JUNE 22, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council

FROM: Stewart Cruz, City Planner

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Ordinance 2021-03: Voluntary annexation of unincorporated Volusia County property located at 2924 S. Peninsula Drive

SYNOPSIS:

Shane McGill and Erica Smith, owners of the unincorporated Volusia County property located at 2924 S. Peninsula Drive (**Exhibit 1**), have petitioned the City of Daytona Beach Shores for voluntary annexation into the City's corporate limits (**Exhibit 2**) pursuant to Section 171.044, Florida Statutes. The property houses a single-family residential structure. If adopted, Ordinance 2021-03 will annex the subject property and adjacent right-of-way into the City limits of Daytona Beach Shores.

FISCAL IMPACT STATEMENT:

BACKGROUND:

The subject property is approximately 0.308 of an acre with dimensions of 91' (road frontage) by 135' (depth). The property contains a 2,835 square foot two story single-family residential structure (**Exhibit 3**). The proposed City future land use and zoning classifications will be similar to those of the County's and consistent with the existing neighborhood as the owners have no plans to redevelop the property. **Exhibit 4** attached provides a general description of the subject property.

Exhibit 5 attached demonstrates compliance with the voluntary annexation requirements prescribed in Section 171.044, Florida Statutes.

Finally, pursuant to Section 171.062, Florida Statutes, the property owners have also submitted applications to amend the future land use and zoning classifications of the property in question to those of the City's. The future land use amendment and rezoning ordinances will be adopted subsequent to the formal annexation of the subject property.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2021-03 as presented.

SUGGESTED MOTION:

A City Council member may move as follows:

"I move to **approve** Ordinance 2021-03 as presented."

- ATTACHMENT:**
1. Ord 2021-03-Voluntary Annexation-2924 S. Peninsula Drive
 2. 2924 S. Peninsula-M-B Description
 3. 2924 S. Peninsula-Sketch of M-B
 4. Ord 2021-03-Staff Report Exhibits

ORDINANCE NO. 2021-03

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RELATING TO VOLUNTARY ANNEXATION OF REAL PROPERTY LOCATED AT 2924 S. PENINSULA DRIVE (SHORT PARCEL IDENTIFICATION NUMBER 5327-09-00-0200) TOGETHER WITH ASSOCIATED RIGHT-OF-WAYS IN ACCORDANCE WITH SECTION 171.044, *FLORIDA STATUTES*; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; REDEFINING THE BOUNDARIES OF THE CITY; PROVIDING FOR LEGAL EFFECT AND IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, PROVIDING FOR NON-CODIFICATION AND SETTING AN EFFECTIVE DATE.

WHEREAS, Shane McGill and Erica Smith applied for annexation of property into the City of Daytona Beach Shores and are hereby determined to be the fee simple title owners of the real property described below; and

WHEREAS, the said applicants petitioned the City of Daytona Beach Shores, pursuant to Section 171.044, *Florida Statutes*, for annexation of said property into the municipal limits of the City of Daytona Beach Shores; and

WHEREAS, the subject property is currently addressed 2924 South Peninsula Drive; and

WHEREAS, the subject property currently has a Short Tax Parcel Identification Number 5327-09-00-0200; and

WHEREAS, the City of Daytona Beach Shores has determined that all of the property which is proposed to be annexed into the City of Daytona Beach Shores is within an unincorporated area of Volusia County, is reasonably compact and contiguous to the corporate areas of the City of Daytona Beach Shores, Florida and it is further determined that the annexation of said property will not result in the creation of any enclave (and, indeed, logically fills in the City Limits of the City and is consistent with sound principles and practices relating to the delineating of jurisdictional boundaries thereby furthering sound management in terms of the provision of public facilities and services as well as sound land use planning), and it is further determined that the property otherwise fully complies with the requirements of State law and has, further, determined that associated rights-of-way should be annexed hereby; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida has taken all actions in accordance with the requirements and procedures mandated by State law; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida hereby determines that it is to the advantage of the City of Daytona Beach Shores and in the best interests of the citizens of the City of Daytona Beach Shores to annex the aforescribed property; and

WHEREAS, the provisions of Section 166.031(3), *Florida Statutes*, provide that [a] municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2); and

WHEREAS, the provisions of Section 171.091, *Florida Statutes*, provide as follows:

Recording.—Any change in the municipal boundaries through annexation or contraction shall revise the charter boundary article and shall be filed as a revision of the charter with the Department of State within 30 days. A copy of such revision must be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.

; and

WHEREAS, the map attached hereto as Exhibit “A” shows, describes, and depicts the property and named associated rights-of-ways which are hereby annexed into the City of Daytona Beach Shores said Exhibit being incorporated into the substantive provisions of this Ordinance as if fully set forth herein verbatim.

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

SECTION ONE: LEGISLATIVE AND ADMINISTRATIVE FINDINGS/ANNEXATION OF PROPERTIES.

(a). The City Council of the City of Daytona Beach Shores hereby finds that the recitations set forth are true and correct and that the requirements of Section 171.044, *Florida Statutes*, as well as all other requirements of controlling law, have been complied with in every respect.

(b). Under the authority of Section 166.031 (3), *Florida Statutes*, relating to city charter amendments, “[a] municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. . . . A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State . . .” This Ordinance shall amend the boundaries of the City to include the property annexed in this Ordinance.

SECTION TWO: ANNEXATION INTO THE CITY. The real property depicted and described by metes and bounds in Exhibit “A” appended hereto, which Exhibit is made part hereof and which property is owned by the petitioning property owners, and further described as set forth below, together with the associated rights-of-way as described below, is hereby annexed into the City Limits of the City of Daytona Beach Shores, said property being described as follows:

LOT 20, RIVER POINT SUBDIVISION AS RECORDED IN MAP BOOK 34, PAGE 113, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 20; THENCE RUN S55°50'30"W ALONG THE SOUTHERLY LINE OF SAID LOT 20, A DISTANCE OF 135.95 FEET TO THE WESTERLY LINE OF SAID LOT 20; THENCE N27°22'00"W ALONG THE WESTERLY LINE OF SAID LOT 20, A DISTANCE OF 107.50 FEET TO THE NORTHERLY LINE OF SAID LOT 20; THENCE N62°38'00"E ALONG THE NORTHERLY LINE OF SAID LOT 20, A DISTANCE OF 135.00 FEET TO THE EASTERLY LINE OF SAID LOT 20 BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF SOUTH PENINSULA DRIVE; THENCE S27°22'00"E ALONG SAID EASTERLY LINE, 91.42 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.308 ACRES, MORE OR LESS.

TOGETHER WITH A PORTION OF SOUTH PENINSULA DRIVE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1823, PAGE 366, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 20; THENCE RUN N27°22'00"W ALONG THE EASTERLY LINE OF SAID LOT 20, BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF SAID SOUTH PENINSULA DRIVE, A DISTANCE OF 91.42 FEET TO THE NORTHERLY LINE OF SAID LOT 20; THENCE N62°38'00"E ALONG THE EASTERLY EXTENSION OF THE NORTHERLY LINE OF SAID LOT 20, A DISTANCE OF 80.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID SOUTH PENINSULA DRIVE; THENCE S27°22'00"E ALONG SAID EASTERLY RIGHT OF WAY LINE, 91.42 FEET; THENCE S62°38'00"W, 80.00 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.168 ACRES, MORE OR LESS.

SECTION THREE: CHANGE IN CITY BOUNDARIES/LEGAL EFFECT OF ANNEXATION. The boundary lines of the City Limits of the City of Daytona Beach Shores are hereby redefined and, upon the effective date of this Ordinance shall also encompass the annexed property as described herein and depicted in Exhibit “A”. Upon this Ordinance becoming effective, the property owner of the annexed property shall be entitled to all the rights and privileges and immunities as are from time-to-time granted to property owners of the City as further provided in Chapter 171, *Florida Statutes*, and shall further be subject to the responsibilities of ownership as may from time-to-time be determined by the governing authority of the City and the provisions of said Chapter 171, *Florida Statutes*.

SECTION FOUR: ADMINISTRATIVE IMPLEMENTING ACTIONS.

(a). Within seven (7) days of the adoption of this Ordinance, the City Clerk shall file a copy of said Ordinance with the Clerk of the Court (Land Records/Recording), with the Chief Administrative Officer of Volusia County (the County Manager), with the Florida Department of State, and with such other agencies and entities as may be required by law or otherwise desirable.

(b). The City Manager, or designees within City management staff, shall ensure that the property annexed by this Ordinance is incorporated into the City of Daytona Beach Shores *Comprehensive Plan* and the *Official Zoning Map* of the City of Daytona Beach Shores in an expeditious manner and, in accordance with, and pursuant to, the provisions of Under the authority of Section 166.031(3), *Florida Statutes*, the City Manager, or designees, shall amend the boundaries of the City to include the property annexed in this Ordinance and all previously annexed properties in all maps and geographical data

relating to the City Limits said properties to include, but not be limited to, annexed rights-of-way and natural features.

SECTION FIVE: CONFLICTS. Any and all ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION SIX: SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION SEVEN: NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shores*, or the *Land Development Code of the City of Daytona Beach Shores*, or the *City of Daytona Beach Shores Comprehensive Plan* provided, however, that the actions taken herein shall be depicted on the pertinent maps of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION EIGHT: EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

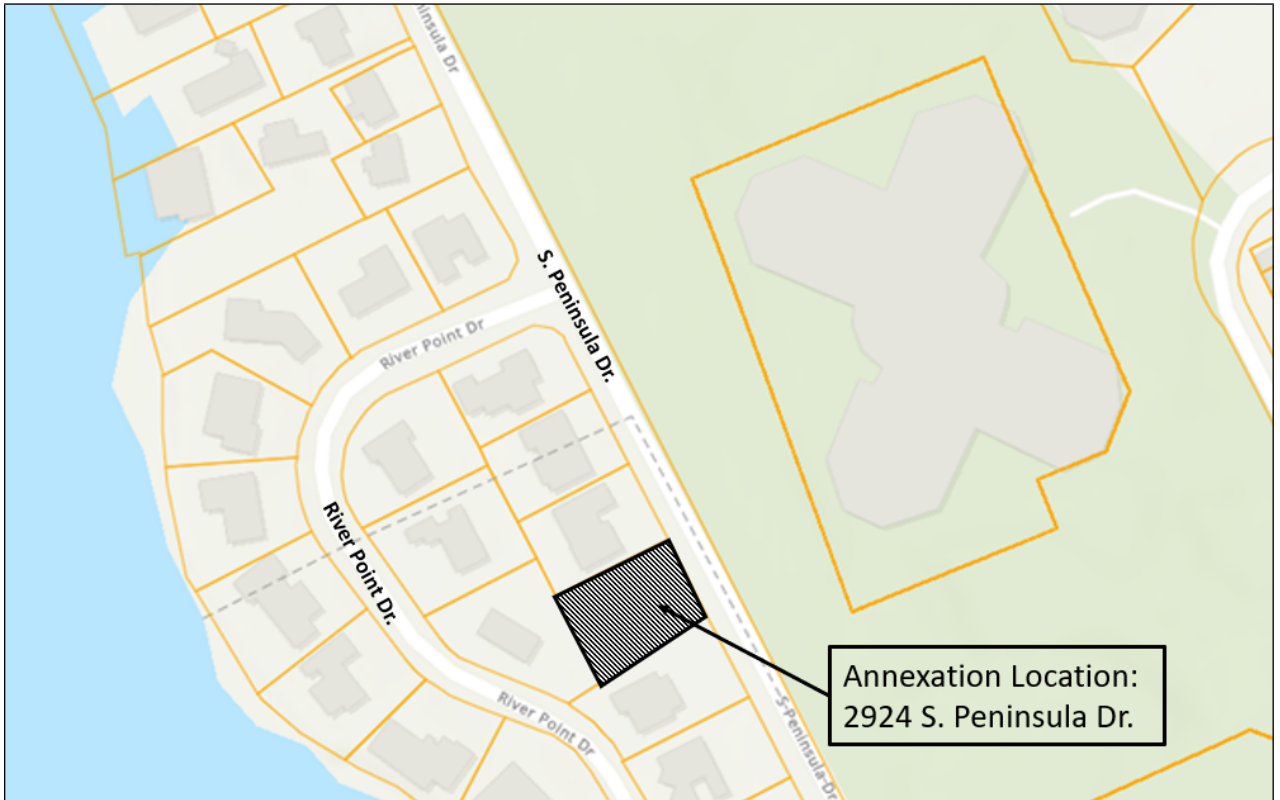
JOHN CARY, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2021.

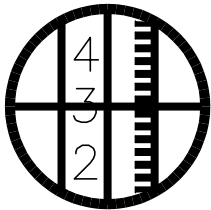
Adopted on second reading this _____ day of _____, 2021.

EXHIBIT A

(1) Location Map of Annexing Property (2924 South. Peninsula Drive)



(2) Metes and Bounds Description/Sketch (Attached)



SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS

LICENSED BUSINESS CERTIFICATION NO. 3019

3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385

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www.sligerassociates.com

SURVEYORS NOTES

1. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY/SKETCH OF DESCRIPTION THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. THIS SURVEY/ SKETCH OF DESCRIPTION PREPARED WITHOUT BENEFIT OF AN ABSTRACT.
2. DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
3. BEARING STRUCTURE BASED ON RECORD PLAT WITH THE BEARING ON THE WESTERLY LINE OF LOT 20, RIVER POINT SUBDIVISION BEING N27°22'00"W.
4. UNDERGROUND FOUNDATIONS, IF ANY, NOT LOCATED.
5. "NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR VALID DIGITAL SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER."
6. UNLESS OTHERWISE SHOWN, RECORD DISTANCES AND DIRECTIONS AND FIELD MEASURED DISTANCES AND DIRECTIONS ARE THE SAME.
7. DESCRIPTION REPOARED BY SLIGER & ASSOCIATES, INC..

LOT 20, RIVER POINT SUBDIVISION AS RECORDED IN MAP BOOK 34, PAGE 113, OF THE PUBLIC ERCORDS OF VOLUSIA COUNTY, FLORIDA BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 20; THENCE RUN S55°50'30"W ALONG THE SOUTHERLY LINE OF SAID LOT 20, A DISTANCE OF 135.95 FEET TO THE WESTERLY LINE OF SAID LOT 20; THENCE N27°22'00"W ALONG THE WESTERLY LINE OF SAID LOT 20, A DISTANCE OF 107.50 FEET TO THE NORTHERLY LINE OF SAID LOT 20; THENCE N62°38'00"E ALONG THE NORTHERLY LINE OF SAID LOT 20, A DISTANCE OF 135.00 FEET TO THE EASTERLY LINE OF SAID LOT 20 BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF SOUTH PENINSULA DRIVE; THENCE S27°22'00"E ALONG SAID EASTERLY LINE, 91.42 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.308 ACRES, MORE OR LESS.

TOGETHER WITH A PORTION OF SOUTH PENINSULA DRIVE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1823, PAGE 366, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 20; THENCE RUN N27°22'00"W ALONG THE EASTERLY LINE OF SAID LOT 20, BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF SAID SOUTH PENINSULA DRIVE, A DISTANCE OF 91.42 FEET TO THE NORTHERLY LINE OF SAID LOT 20; THENCE N62°38'00"E ALONG THE EASTERLY EXTENTION OF THE NORTHERLY LINE OF SAID LOT 20, A DISTANCE OF 80.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID SOUTH PENINSULA DRIVE; THENCE S27°22'00"E ALONG SAID EASTERLY RIGHT OF WAY LINE, 91.42 FEET; THENCE S62°38'00"W, 80.00 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.168 ACRES, MORE OR LESS.

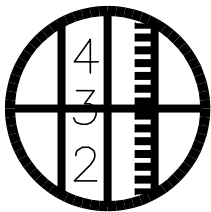
REFERENCE: RIVER POINT SUBDIVISION

THIS PLAT OF SURVEY IS CERTIFIED TO AND PREPARED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE ENTITIES AND\OR INDIVIDUALS LISTED BELOW, ON THE MOST CURRENT DATE, AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL WHOMSOEVER.

TYPE OF SURVEY	CERTIFIED TO	SURVEY DATE	JOB NUMBER
SKETCH OF DESCRIPTION	CITY OF DAYTONA BEACH SHORES, FLORIDA	APRIL 28, 2021	21-0740

SHEET 2 OF 2

FOR: CITY OF DAYTONA BEACH SHORES						I HEREBY CERTIFY THAT THIS PLAT MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17.05, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. Digitally signed by Joseph E Zapert Date: 2021.04.29 10:24:36 -04'00' Joseph E Zapert J.E. ZAPERT, P.L.S. NO. 4046 STEVEN T. KRUGER, P.L.S. NO. 4722 C.O. VAN KLEECK JR., P.S.M. NO. 6149 MICHAEL S. MURPHY, P.S.M. NO. 6208
SKETCH OF DESCRIPTION	DATE	JOB NO.	P.C.	DRW.	CHECKED BY	
BOUNDARY SURVEY	APRIL 28, 2021	21-0740		JZ	DH	
TOPOGRAPHIC SURVEY						
FOUNDATION LOCATED						
FINAL IMPROVEMENTS						
RECERTIFICATION						
PROPOSED HOUSE LOCATION						



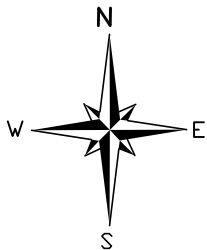
SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS

LICENSED BUSINESS CERTIFICATION NO. 3019

3921 NOVA ROAD
PORT ORANGE, FL. 32127
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LOT 18
RIVER POINT SUB.
MAP BOOK 34,
PAGE 113
5327-09-00-0180

0.308 ACRES +/-
LOT 20
RIVER POINT SUB.
MAP BOOK 34,
PAGE 113
5327-09-00-0200

LOT 19
RIVER POINT SUB.
MAP BOOK 34,
PAGE 113
5327-09-00-0190

LOT 21
RIVER POINT SUB.
MAP BOOK 34,
PAGE 113
5327-09-00-0210

COMMON AREA
OCEANS WEST A
PLANNED UNIT
DELOPMENT
AMENDED PLAT
MB 39, PGS 6-11
5327-10-00-0010

EASTERLY EXTENSION OF
NORTHERLY LINE LOT 20
N62°38'00"E
215.00'

S PENINSULA DRIVE
ORB 1823, PG 366
0.168 ACRES +/-

EASTERLY R/W LINE
S27°22'00"E
91.42'

WESTERLY R/W LINE
N27°22'00"W
91.42'

WESTERLY LINE LOT 20
S27°22'00"E
91.42'

S62°38'00"W
80.00'

POINT OF
BEGINNING
SOUTHEASTERLY
CORNER OF LOT 20

SOUTHERLY LINE LOT 20
S55°50'30"W
135.95'

WESTERLY LINE LOT 20
N27°22'00"W
107.50'

SKETCH OF DESCRIPTION NOT A BOUNDARY SURVEY

FOR: THE CITY OF DAYTONA BEACH SHORES, FLORIDA

DESCRIPTION: SEE
SHEET 2 FOR LEGAL
DESCRIPTION

JOB #21-0740

SCALE: 1"=40'

FIELD BOOK:

PAGE:

ABBREVIATIONS

(P)	PLATTED DIMENSION
(D)	DEEDED DIMENSION
MB	MAP BOOK
PG	PAGE
ORB	OFFICIAL RECORDS BOOK
A/C	AIR CONDITIONER
R/W	RIGHT OF WAY
CL	CENTERLINE
D	CENTRAL ANGLE
R	RADIUS
L	ARC LENGTH
CB	CHORD BEARING
FP&L CO.	FLORIDA POWER & LIGHT COMPANY
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM
U.S.C. & G.S.	UNITED STATES COAST AND GEODETIC SURVEY

SHEET 1 OF 2

LEGEND

●	IRON ROD WITH CAP
○	IRON PIPE
□	CONCRETE MONUMENT
■	PERMANENT REFERENCE MONUMENT
△	PERMANENT CONTROL POINT
(R)	RADIAL LINE
(NR)	NON-RADIAL LINE
○	EXISTING ELEVATION
□	PROPOSED ELEVATION

EXHIBIT 1: Location Map of Annexing Property (2924 S. Peninsula Drive)



Source: Volusia County Property Appraiser Website, 2021

EXHIBIT 2

A: Annexation Application (2924 S. Peninsula Drive)



City of Daytona Beach Shores

Building & Codes Division
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377 Fax (386) 763-5370

637085

RECEIVED

12021009
REQUEST FOR ANNEXATION

APR 23 2021

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

3/15/2021
(Date)

I (We) the undersigned am the sole property owner(s) of 2924 S Peninsula Dr, Volusia
County, Florida. (Street Address) Daytona Beach, 32118

By this letter, I (We) am requesting annexation into the City of Daytona Beach Shores, Florida.
It is my (our) understanding that the fee for legal advertising has been waived by the City and
that I (we) will not incur any costs for annexation. 5327-04-000200

Signed,

Shane McGill
Signature

Shane McGill
Name (Printed or typed)

860-501-2520
Telephone

Erica Smith
Signature

Erica Smith
Name (Printed or typed)

617-513-2017
Telephone

Signature

Name (Printed or typed)

Telephone

SWORN to and subscribed before me this 23 day of April, 2021 by
Shane McGill + Erica Smith, who is personally known to me or produced
Identification Y. Type of Identification provided FL Driver's License

Cheryl Lee Thibault
Notary Public - State of Florida
My Commission Expires:



Please return this form to: Annexation Committee
c/o Planning Department
City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118

shane.mcgill@rocketmail.com

EXHIBIT 2
B: Property Appraiser Website Owner Information

[Agriculture](#) [Maps](#) [Tangible Prop](#)



LARRY BARTLETT, JD, CFA
VOLUSIA COUNTY PROPERTY APPRAISER
We VALUE VOLUSIA

[Search](#) [Downloads](#)

[Home](#) / Parcel Summary for 3434412

[Summary](#) [Tax Estimate](#) [Permits](#) [Map](#) [Pictometry](#) [Print](#)

Alternate Key: 3434412

Parcel ID: 532709000200

Township-Range-Section: 15 - 33 - 27

Subdivision-Block-Lot: 09 - 00 - 0200

Business Name:

Owner(s): SMITH ERICA - TE - Tenancy in the Entirety - 100
MCGILL SHANE - TE - Tenancy in the Entirety - 100

Mailing Address On File: 2924 S PENINSULA DR
DAYTONA BEACH FL 32118
[Update Mailing Address](#)

Physical Address: 2924 S PENINSULA DR, DAYTONA BEACH 32118

Building Count: 1

Neighborhood: 3101 - DACHS SUB # 1 (5327-01)--DACH
[Neighborhood Sales](#)

Subdivision Name: RIVER POINT

Property Use: 0100 - SINGLE FAMILY

Tax District: 200-UNINCORPORATED - NORTHEAST

2020 Certified Millage Rate: 19.5221

Homestead Property: Yes

Agriculture Classification: No - [Additional Information](#)

[Values & Exemptions](#) [Land & Buildings](#) [Sales](#) [Legal](#)

 [Property Tax Bill](#)

EXHIBIT 3

A: Aerial View of Annexing Property (2924 S. Peninsula Drive)



Source: Volusia County Property Appraiser Website (Pictometry), 2020

B: Street View of Annexing Property (2924 S. Peninsula Drive)



Source: GoogleMaps, 2018

Exhibit 4



PRE-ANNEXATION FORM

Name of Property Owner: Shane McGill & Erica Smith

Property Address/Tax Parcel ID: 2924 S. Peninsula Drive /5327-09-00-0200

According to Volusia County property records, does this property appear to meet Section 171.044 of Florida Statutes? Yes X No

How is property contiguous? East X West North South

Property Appraiser Just/Market Value: \$387,485

Homesteaded Property: Yes No X

Improved Lot X Unimproved Lot (Vacant)

Existing Use: Single-family Residential

Conforming Land Use: X Non-Conforming Land Use: Explain:

Existing County Zoning: R-3 Urban Single-Family Residential District

Existing County Land Use: Urban Low Intensity

Condition of Property: Poor Good X Excellent

Water: Port Orange X Daytona Beach

Sanitary: Sewer X (DBS) Septic Tank

If septic tank on site, is sewer available? NA Yes No

Metes and Bounds Survey conducted? Yes X No

Prepared by: Stewart Cruz, City Planner Date: May 26, 2021

EXHIBIT 5: Voluntary Annexation Criteria pursuant to Section 171.044, *Florida Statutes*

Section	Annexation Criteria	Criteria Met	Comments
171.044(1)	Property must be contiguous to the City.	Yes	Per Sec. 171.031(11), subject property is contiguous to the City to the east.
171.044(1)	Property must be reasonably compact.	Yes	Per Sec. 171.031(12), subject property is reasonably compact and will not create new enclaves, pockets or finger areas in serpentine patterns. In addition, the annexation will aid in reducing the larger county enclave in the vicinity.
171.044(2)	Petition bears the signatures of all owners of property.	Yes	See Exhibit 2 .
171.044(2)	Meet publication requirements.	Yes	Evidence filed with the Office of the City Clerk.
171.044(3)	Ordinance shall be filed per statute.	Pending	Ordinance filing will occur per statutory deadline subsequent to the Ordinance's adoption.
171.044(3)	Ordinance shall include a map and legal description by metes and bounds.	Yes	See Ordinance 2021-03.
171.044(4)	Annexation method shall be supplemental to any other procedure provided by general law.	N/A	
171.044(5)	Annexation shall not create enclaves.	Yes	Per Sec. 171.031(13), subject property does not create an enclave. In fact the annexation will reduce the larger County enclave that currently exists in this area.
171.044(6)	Provision of notice to County Commissioners per statute.	Yes	Notice provided via certified mail on 05/10/21 per statutory requirement.



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING JUNE 22, 2021

6:00 PM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118

Notice is hereby given to all interested parties that if any person should decide to appeal any decision made at the aforementioned meeting of the P&Z Board, such person will need a recording of the proceedings conducted at such meeting, and for such purpose he or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the City Clerk, City of Daytona Beach Shores, at least five working days prior to the meeting.

PLANNING & ZONING BOARD AGENDA MEMORANDUM JUNE 22, 2021 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2021-04: Comprehensive Plan Future Land Use Map amendment for annexing single-family residential property located at 2924 S. Peninsula Drive

SYNOPSIS:

Ordinance 2021-04, if adopted, would amend the City's Adopted Comprehensive Plan Update (2030) Future Land Use Map by assigning the *residential low intensity* future land classification to the annexing single-family residential property located at 2924 S. Peninsula Drive (**Exhibit A**). The application (**Exhibit B**) was submitted by Shane McGill and Erica Smith, owners of the subject property, and is a requirement of Florida Law when a property is annexed. The property is 0.308 acres and is occupied by a 2,835 square foot structure. The proposed amendment is compatible with the current Volusia County future land use category and as such, the use will remain as single-family residential.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

The subject property, located at 2924 S. Peninsula Drive, is currently being annexed into the corporate limits of the City of Daytona Beach Shores pursuant to the voluntary annexation process outlined in Section 171.044, Florida Statutes . However, Section 171.062, Florida Statutes limits regulatory and development control over an annexing property if the area annexed was subject to a county land use plan and county zoning and the municipality does not adopt a comprehensive plan and zoning amendment that include the annexed area. Therefore, the County land use plan and zoning regulations would remain in full force and effect until the City changes the future land use classification and zoning designation of the subject property. The purpose of this application is to realize the former. Additionally, the property owners have also submitted an application to rezone the property to the City's RSF-2 Urban Single-Family Residential Detached District, consistent with the existing and surrounding land uses and current Volusia County R-9 District zoning classification. The rezoning will occur subsequent to the future land use amendment associated with the subject property.

B. PLANNING ANALYSIS

See **Exhibit C** for planning analysis.

LEGAL REVIEW:

Approved as to form and content.

RECOMMENDATION:

On June 14, 2021 the Planning and Zoning Board unanimously recommended approval of Ordinance 2021-04. Staff recommends approval of Ordinance 2021-04 as presented.

SUGGESTED MOTION:

A City Council member may motion as follows:

1. "I move to **approve** Ordinance 2021-04 as presented."
- OR
2. "I move to approve Ordinance 2021-04, with the following amendments..."
- OR
3. "I move to deny Ordinance 2021-04, on the basis of the following..."

- ATTACHMENT:**
1. ORD 2021-04-CPA 2924 S. Peninsula Drive
 2. Exhibit A-Location Map
 3. Exhibit B-Application
 4. Exhibit C-Ord 2021-04-P&Z Staff Report-FLUMA-Shane McGill & Erica Smith

ORDINANCE NO: 2021-04

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY FLORIDA, RELATING TO COMPREHENSIVE PLANNING; AMENDING *THE CITY OF DAYTONA BEACH SHORES COMPREHENSIVE PLAN*, AMENDING CHAPTER 1, “FUTURE LAND USE ELEMENT”, BY AMENDING MAP L-4 ENTITLED, “GENERALIZED FUTURE LAND USE MAP (2030)” ASSIGNING THE RESIDENTIAL LOW INTENSITY FUTURE LAND USE DESIGNATION TO ANNEXED SINGLE-FAMILY RESIDENTIAL PROPERTY GENERALLY LOCATED AT 2924 S. PENINSULA DRIVE, SHORT TAX PARCEL ID 5327-09-00-0200; PROVIDING FOR IMPLEMENTING ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Daytona Beach Shores is committed to planning and managing the future growth of the City; and

WHEREAS, the City of Daytona Beach Shores has the authority to amend its Comprehensive Plan pursuant to Part II, Chapter 163, *Florida Statutes*; and

WHEREAS, the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan* directly relates to small scale development activities as provided in Section 163.3187(1)(c), *Florida Statutes*; and

WHEREAS, the Volusia County Growth Management Commission has issued a determination of consistency in accordance with Section 202.3 of the *Charter of Volusia County, Florida*, for the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan*; and

WHEREAS, the Planning and Zoning Board, which is the local planning agency of the City, and City Council of the City of Daytona Beach Shores have conducted public hearings and issued notices required by Florida law in the preparation and enactment of this Ordinance; and

WHEREAS, Shane McGill and Erica Smith, owners of the real property with short tax parcel ID 5327-09-00-0200 and generally located at 2924 S. Peninsula Drive, submitted an owner initiated future land use map amendment application to the City of Daytona Beach Shores on April 23, 2021; and

WHEREAS, Shane McGill and Erica Smith, owners of the subject property, are requesting the City of Daytona Beach Shores amend the future land use classification of the subject real property to Residential Low Intensity; and

WHEREAS, the City Council of the City of Daytona Beach Shores declares that the purpose and intent of the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan* is to guide future growth and development; encourage the most appropriate use of the land, water and other resources, consistent with the public interest, promote and protect the public health, safety, comfort, good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; provide adequate facilities and services; conserve and protect natural resources within the City, while protecting private property rights; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds that this Ordinance serves the best interest of the City of Daytona Beach Shores; and

WHEREAS, underlined words shall constitute additions to the original text of the Comprehensive Plan, *** shall constitute ellipses, and ~~strike through~~ shall constitute deletions to the Comprehensive Plan.

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

SECTION ONE: CHANGE IN FUTURE LAND USE ELEMENT/FUTURE LAND USE MAP. Chapter 1, “Future Land Use Element,” containing the Official Future Land Use Map (Map L-4) of the *City of Daytona Beach Shores Comprehensive Plan* is hereby amended to change the Future Land Use Designation of a +/-0.308 acre property from Volusia County Urban Low Intensity to Daytona Beach Shores Residential Low Intensity as to property as described in Exhibit “A” as follows:

Location Address	Short Tax Parcel ID	Daytona Beach Shores Future Land Use Designation
2924 S. Peninsula Drive	5327-09-00-0200	Residential Low Intensity

SECTION TWO: IMPLEMENTING ADMINISTRATIVE ACTIONS. The Community Services Director is hereby authorized to transmit copies of the adopted amendment to the *City of Daytona Beach Shores Comprehensive Plan* to the appropriate agencies and to any other unit of local government who has filed a written request for a copy in accordance with the provisions of Section 163.3187(1)(c)2.b, *Florida Statutes* and *Volusia Growth Management Rules*.

SECTION THREE: CONFLICTS. All ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION FOUR: SEVERABILITY. If any section or portion of a section of this Ordinance, or application of any provision of this Ordinance, proves to be invalid, unlawful, or

unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Ordinance.

SECTION FIVE. NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shore* or, the *Land Development Code of the City of Daytona Beach Shores*, or the *City of Daytona Beach Shores Comprehensive Plan* provided, however, that the actions taken herein shall be depicted in the *City of Daytona Beach Shores Comprehensive Plan* and on the Future Land Use Map of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION SIX: EFFECTIVE DATE. This Ordinance shall become effective, in accordance with the provisions of Section 163.3187, *Florida Statutes*, thirty-one (31) days after enactment; provided, however, if this Ordinance is challenged within thirty (30) days after enactment, this Ordinance shall not become effective until the Florida Department of Community Affairs, acting as the State Land Planning Agency, or the Administration Commission, respectively, issues a final order determining that the small scale development amendment to the *City of Daytona Beach Shores Comprehensive Plan* set forth in this Ordinance is in compliance.

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.

EXHIBIT A

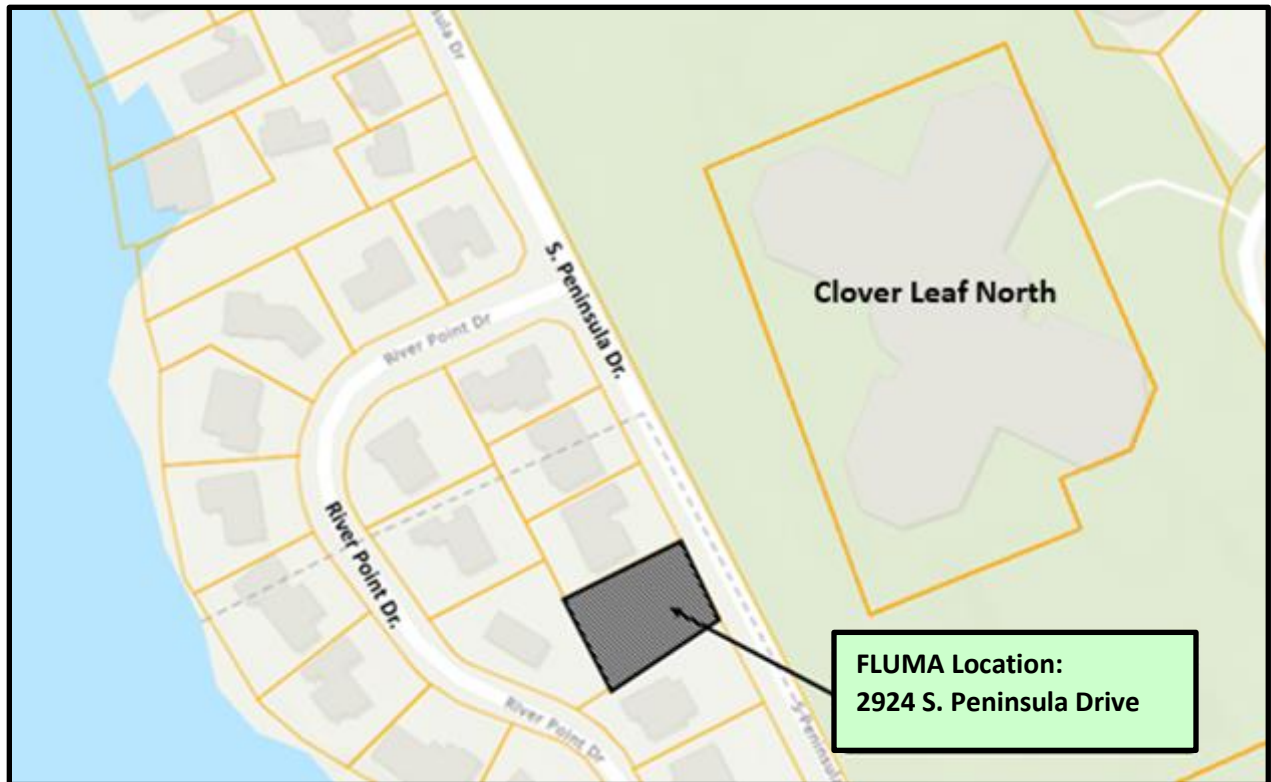
LOT 20, RIVER POINT SUBDIVISION AS RECORDED IN MAP BOOK 34, PAGE 113, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 20; THENCE RUN S55°50'30"W ALONG THE SOUTHERLY LINE OF SAID LOT 20, A DISTANCE OF 135.95 FEET TO THE WESTERLY LINE OF SAID LOT 20; THENCE N27°22'00"W ALONG THE WESTERLY LINE OF SAID LOT 20, A DISTANCE OF 107.50 FEET TO THE NORTHERLY LINE OF SAID LOT 20; THENCE N62°38'00"E ALONG THE NORTHERLY LINE OF SAID LOT 20, A DISTANCE OF 135.00 FEET TO THE EASTERLY LINE OF SAID LOT 20 BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF SOUTH PENINSULA DRIVE; THENCE S27°22'00"E ALONG SAID EASTERLY LINE, 91.42 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.308 ACRES, MORE OR LESS.

TOGETHER WITH A PORTION OF SOUTH PENINSULA DRIVE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1823, PAGE 366, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 20; THENCE RUN N27°22'00"W ALONG THE EASTERLY LINE OF SAID LOT 20, BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF SAID SOUTH PENINSULA DRIVE, A DISTANCE OF 91.42 FEET TO THE NORTHERLY LINE OF SAID LOT 20; THENCE N62°38'00"E ALONG THE EASTERLY EXTENTION OF THE NORTHERLY LINE OF SAID LOT 20, A DISTANCE OF 80.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID SOUTH PENINSULA DRIVE; THENCE S27°22'00"E ALONG SAID EASTERLY RIGHT OF WAY LINE, 91.42 FEET; THENCE S62°38'00"W, 80.00 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.168 ACRES, MORE OR LESS.

LOCATION MAP: 2924 S. Peninsula Drive





City of Daytona Beach Shores
COMMUNITY SERVICES DEPARTMENT
 2990 S. Atlantic Avenue
 Daytona Beach Shores, FL 32118
 Phone (386) 763-5377 Fax (386) 763-5370

12021011

**APPLICATION FOR COMPREHENSIVE PLAN/FUTURE LAND USE MAP
 AMENDMENT**

637085

The Undersigned Applicant requests the Planning and Zoning Board AND City Council to hear and decide upon this application in accordance with Sec. 2-2 of the Land Development Code and Florida Law.

RECEIVED

APR 23 2021

BUILDING AND CODES DIVISION
 CITY OF DAYTONA BEACH SHORES

Date Submitted: 4 / 23 / 2021

Applicable Section of the Comprehensive Plan: _____

Fees must be paid at the time the application is submitted.

Applicant's Name: Shane McGill Erica Smith

Address: 2924 S. Peninsula Dr. Phone #: 860-501-2520

Property Address: 2924 S Peninsula Dr. Daytona Beach 32118

Existing Property Use: Single family

Representing Attorney (if any): _____

Address: _____ Phone #: _____

NOTES: 1) Notarized letter of authorization from owner MUST be submitted if application is filed by anyone other than the owner. 2) A completed application MUST be submitted at least 45 days prior to the anticipated Planning and Zoning hearing date.

Legal description of the property:

Lot 20 River point sub. MB 34

Description of your request:

Annexation from the county into Daytona Beach Shores

Shane McGill Erica Smith
 Applicant's Signature

Shane McGill

Erica Smith

4 / 23 / 2021
 Date

EXHIBIT C
PLANNING ANALYSIS
Ordinance 2021-04

A. INTRODUCTION

The proposed amendment seeks to change the future land use designation of a single-family residential property, currently being annexed into the City, from Volusia County *Urban Low Intensity* (0.2-4.0 units/acre) to Daytona Beach Shores *Residential Low Intensity* (0-4.0 units/acre). The +/- 0.308 acre property is located at 2924 S. Peninsula Drive. The subject application received on April 23, 2021, if approved, would result in the first 2021 small-scale comprehensive plan amendment for the City of Daytona Beach Shores in accordance with Section 163.3187, *Florida Statutes*.

B. PROPOSED AMENDMENT ITEM(S)

Item 1: Map Amendment - Chapter 1, Future Land Use Element: amending Map L-4 entitled, “Generalized Future Land Use Map (2030),” to change the future land use classification of the annexing property located at 2924 S. Peninsula Drive from Volusia County *Urban Low Intensity* to Daytona Beach Shores *Residential Low Intensity*:

Overview:

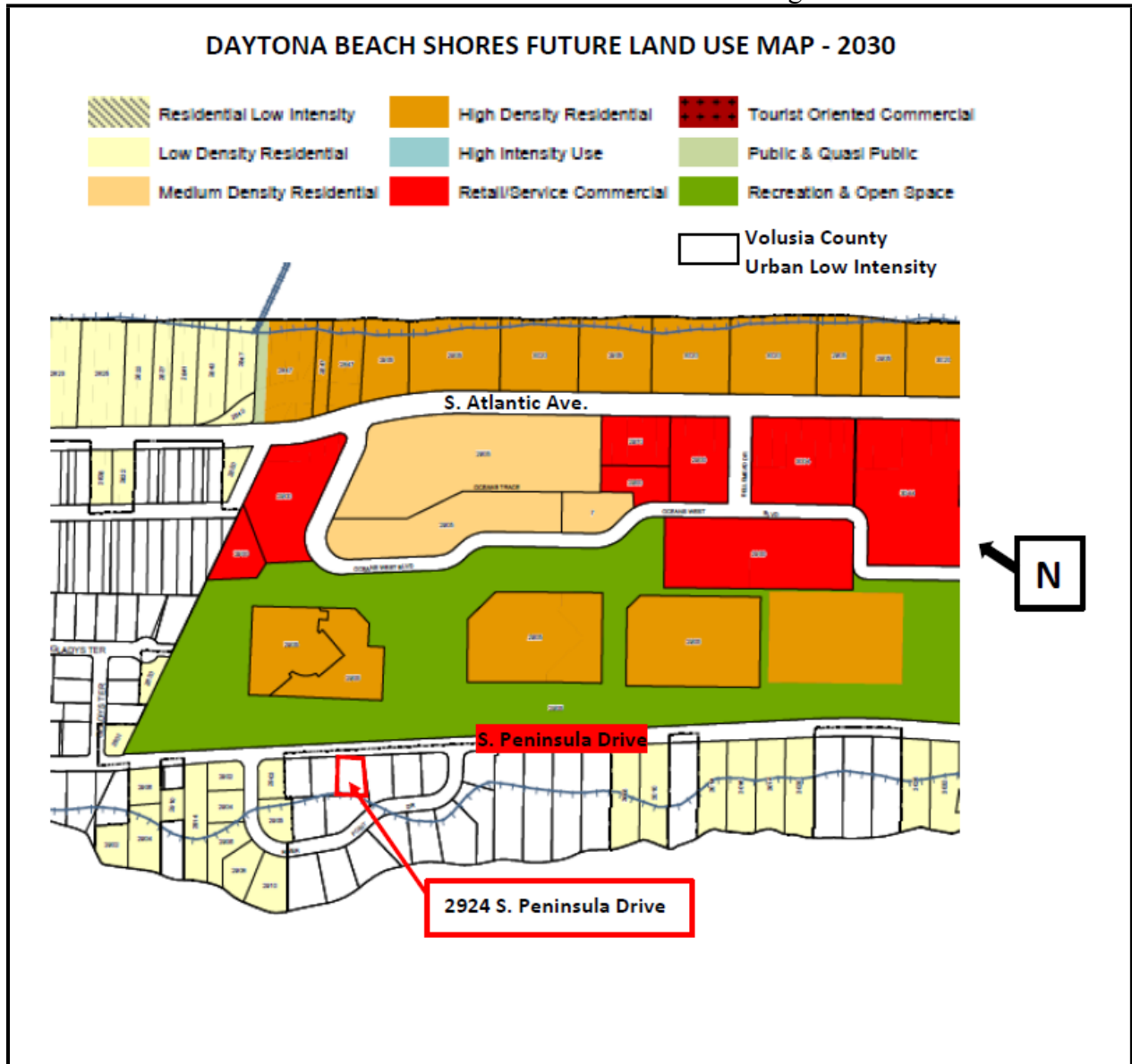
The property houses a 2,835 square foot single-family residential structure, which was built in 1988 (Volusia County Property Appraiser, 2021). The current Volusia County Future Land Use (FLU) and Zoning designations on the property are *Urban Low Intensity* (0.2-4 units/acre) and “R-3” (Urban Single-Family Residential District), respectively. The surrounding future land use designations and zoning classifications are depicted in **Table 1** below while the future land use is illustrated in **Figure 1**. The subject request is to change the FLU designation to Daytona Beach Shores *Residential Low Intensity* (0-4 units/acre).

Table 1: Abutting Zoning and Future Land Use Classification

Location	Zoning		Future Land Use	
	Existing	Proposed	Existing	Proposed
Subject Property	R-3*	RSF-2+	Volusia County Urban Low Intensity	Residential Low Intensity
North	R-3		Volusia County Urban Low Intensity	
South	R-3		Volusia County Urban Low Intensity	
East	PUD		DBS Recreation & Open Space / High Density Residential	
West	R-3		Volusia County Urban Low Intensity	

Notes: *R-3 = Volusia County *Urban Single-Family Residential District*; +RSF-2 = *Urban Single-Family Residential Detached District*.

FIGURE 1: 2924 S. Peninsula Drive - Surrounding Land Use



Description, Data and Analysis:

The analysis conducted below demonstrates the amendment's compliance with the City's Comprehensive Plan and the Florida Administrative Code for future land use map amendments. Therefore, the analysis shows that there will not be any significant impacts on the environment, roadways, public schools and utilities as the allowable densities and use will remain the same.

I. IMPACTS OF PROPOSED AMENDMENT

The current Volusia County *Urban Low Intensity* Future Land Use (FLU) classification allows a maximum density of four (4) units per acre. Under the proposed Daytona Beach Shores FLU designation, *Residential Low Intensity*, the maximum density allowed is also four (4) units per acre. Therefore, the proposed land use amendment would not result in any change in residential density permitted. Further, given the +/-0.308 acre size of the property, the proposed amendment would only allow one (1) residential unit on site, which is the same as currently allowed under the Volusia County FLU classification.

The property is currently vacant but once occupied by a single-family residential structure. Additionally, the proposed Daytona Beach Shores zoning for this property, RSF-2 Urban Single-Family Residential Detached District, would permit only one residential dwelling unit on site. So, from a practical perspective the proposed future land use change will result in no net change in density and impacts.

In accordance with the Daytona Beach Shores Comprehensive Plan Update (2030) and standard practice from the Florida Department Economic Opportunity (DEO) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the theoretical maximum development potential under the current future land use designation versus the designation proposed (**Table 2** below). The following seven public facilities and services were examined and discussed briefly below: (1) Transportation, (2) Sanitary Sewer, (3) Potable Water, (4) Solid Waste, (5) Stormwater Drainage, (6) Recreation, and (7) Public Schools.

Table 2: Impact Analysis (Theoretical Max.)

Development Variable	Current Future Land Use (0.2-4 units/acre)	Proposed Future Land Use (0.2-4 units/acre)	Change
Residential Units Allowed	1	1	None
Population ¹	1.75	1.75	None
AM / PM Peak Hour Trips ²	1.5/2.02	1.5/2.02	None
Sanitary Sewer (gallons/day) ³	250	250	None
Potable Water (gallons/day) ⁴	192.5	192.5	None
Solid Waste (lbs./person) ⁵	17.5	17.5	None
Stormwater Drainage ⁶	n/a	n/a	n/a
Recreation/Open Space	See summary below	See summary below	None
Public School Student(s)	0.396	0.396	None

Notes:

1. Population: 1.75 persons per single-family dwelling
2. Transportation: Rates are for peak hour of adjacent street traffic
Single-family residential unit = 0.75 AM trips, 1.01 PM trips
3. Sanitary Sewer: 250 gallons per dwelling unit per day
4. Potable Water: 110 gallons per capita per day
5. Solid Waste: 10 pounds per capita per day
6. Stormwater Drainage: LOS standard = 25 year, 24 hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School: Generation rates = 0.396 per single-family unit.

Sources:
2010 US Census
ITE Trip Generation Manual, 7th Edition
Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030)

Transportation:

The subject property is a single-family lot with vehicular transportation access to the abutting S. Peninsula Drive, which is a two laned minor arterial road pursuant to the City's Comprehensive Plan. S. Peninsula Drive (SR441) connects to Dunlawton Boulevard (SR421) and International Speedway Boulevard (US92) which are both principal arterial roads leading to the interstate system. The allowable Level-Of-Service (LOS) standard for S. Peninsula Drive is "D." The road is designed for 17,700 daily trips however the road only experiences 9,000 daily trips. Therefore, the LOS is currently at "C." Since the City has no vested trips for this road there will be no net change in vehicular trips as demonstrated in **Table 2** above, hence the allowed LOS standard will continue to be maintained.

Sanitary Sewer:

The City's adopted LOS standard for sanitary sewer is 250 gallons per dwelling unit per day. Using this standard, the proposed land use would theoretically generate a demand of 250 gallons per day. However, since no increase in the number of entitled dwelling units would occur there is no net change in theoretical demand. Regardless it should be noted the City of Port Orange sewer treatment facilities are currently operating at an acceptable level of service.

Potable Water:

The City's adopted LOS standard for potable water is 110 gallons per capita per day. Using this standard, the proposed land use would theoretically create a demand of 192.5 gallons of water per day. No increase in number of theoretical dwelling units or demand will occur. In addition, the current potable water usage is already accounted for in Port Orange's current consumptive use permit (CUP).

Solid Waste Collection:

The proposed land use allows for one (1) residential unit that would be expected to support a population of 1.75 persons, which together would theoretically generate 17.5 pounds of solid waste per day. Solid waste generated within the City of Daytona Beach Shores is collected by Waste Pro, which delivers it to the Volusia County landfill. The 3,000-acre landfill is a Class I facility with a projected life span to the year 2050.

Stormwater Drainage:

The City's adopted LOS standard for stormwater is the 25-year, 24-hour storm event. More specifically, the stormwater facilities must be capable of treating and conveying the runoff from such a storm without causing flooding of adjacent properties or polluting any receiving water bodies. In addition, the Comprehensive Plan requires that there be no net loss of stormwater

retention function as a result of development. Therefore, if the property is developed the parcel must have the same ability to store and discharge water after development as it does before development occurs. The applicants would be required to address stormwater retention on the property in accordance with these City standards.

Recreation and Open Space:

The proposed amendment would theoretically add 1.77 residents to the City. The City's most recent population count was 4,247 (2010 US Census). Policy 7-1.2.1 and Policy 9-1.3.1 in the City's Comprehensive plan establish the LOS standards for recreation facilities within the City. Considering the City's population and the City's recreational LOS standards, it is easy to conclude that Daytona Beach Shores currently has adequate capacity for all recreational facilities as required by the City's Adopted Comprehensive Plan and seen in **Table 3** below.

Table 3: Recreation Facilities Analysis

Type of Park/ Recreational Facility	Unit of Measure/LOS Standard	Current LOS (Facilities)	Deficit
Playgrounds	one per 10,000 people	1	None
Neighborhood Park	one per 10,000 people	5	None
Community Park	one per 25,000 people	1	None
Children's Play Areas	one per 10,000 people	1	None
Baseball/Softball Field	one per 15,000 people	1	None
Tennis Courts	one per 2,000 people	11	None
Community Center	one per 20,000 people	1	None
Exercise Trail	one per 14,000 people	1	None
Nature Study Trail	one per 14,000 people	1	None

Public Schools:

Based on the Volusia County School District's student generation rate for a single-family dwelling unit, the proposed land use could generate at least one (1) full time student. This is exactly the same that could be generated by the existing Volusia County future land use due to the residential density neutrality of the proposed change. Therefore, no increase impact on existing public school facilities is expected. Further, due to the aforementioned, the FLU amendment is exempt from the School District review.

II. LAND USE COMPATIBILITY

The FLU of the surrounding area is primarily residential low intensity (single-family) in character (**Figure 1**). The subject property is located in a single-family neighborhood with Recreation/Open Space and Multifamily High Intensity to the east. **Figure 2**.

Figure 2: Aerial View of 2924 S. Peninsula Drive and Surrounding Neighborhood



Source: Volusia County Property Appraiser, 2021

Considering the above along with **Table 1** contained in the body of this staff report, it is clear that the proposed land use, which is a density neutral land use request, is consistent with the existing and future land use of the surrounding neighborhood.

III. APPLICABLE PLANS, CODES AND REGULATIONS

Future Land Use Element (Daytona Beach Shores Comprehensive Plan):

Policy 1-1.1.5: (a) The City shall maintain at least a Level of Service standard "D" at all times on its roadway network throughout the City. This shall include Dunlawton Boulevard, including the bridge. The maintenance of this Level of Service standard is important to ensure that an efficient flow of traffic can be maintained on these primary roads in the event of a hurricane threat. (b) Maintain the clearance time of the population in the Hurricane Vulnerability Zone at sixteen (16) hours based on a level of service standard "D" during the time of a category 5-storm event as measured on the Saffir-Simpson scale. This policy is consistent with the stated objectives contained in the Coastal Management Element of the Volusia County Comprehensive Plan regarding hurricane evacuation and Section 163.3178 (9) (b), F.S. and based on the most current East Central Florida Regional Planning Council hurricane study.

Policy 1-1.2.2: The City's existing policy of requiring written assurance from any entity providing sewage treatment, potable water, or solid waste disposal shall be maintained throughout the planning period.

Objective 1-1.4: Land uses that are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged. This shall take the form of not allowing any objectionable

uses (industrial, warehousing, etc.) in the new Land Development Code that will be adopted subsequent to this Comprehensive Plan.

Capital Improvement Element

Policy 9-1.3: The City shall use the following Level of Service (LOS) standards in reviewing the impacts of new development and redevelopment on public facility provisions:

- (a) **Sanitary Sewers:** 250 gallons per dwelling unit per day
- (b) **Solid Waste:** 10 pounds per capita per day
- (c) **Drainage:** 25-year, 24-hour design storm
- (d) **Potable Water:** 110 gallons/capita/day (gcd) for Port Orange Service Area
150 gcd for Daytona Beach Service Area
- (e) **Roadways:** Arterials: LOS "D" at peak hour
Collectors: LOS "C" at peak hour
- (f) **Recreation:** See Table 3 above

IV. REVIEW CRITERIA AND STAFF FINDINGS

1. The amendment shall not decrease the LOS Standard for hurricane evacuation routes below LOS Standard D and (b) the amendment shall not increase the clearance time for evacuation of the population in the Hurricane Vulnerability Zone above 16 hours.

Staff finding: The proposed land use amendment is density neutral. Consequently, no increase in traffic is anticipated as a result of the proposed change, therefore: (a) there will be no decrease in the adopted LOS Standard Van Avenue, S.R. 441 and S.R. A1A; and (b) considering the aforementioned, the hurricane evacuation clearance time shall remain the same for the subject roads in question.

2. Written assurances from service providers for sewage treatment, potable water, and solid waste shall be provided when there is a future land use map amendment result in an increase in density or intensity.

Staff finding: The proposed land use amendment is density neutral and the site is already developed. Therefore, no increase in demand is anticipated and no written assurances are needed from service providers since services are already being provided for at the accepted LOS standard.

3. The amendment shall not result in objectionable land use designations inconsistent with the character of the overall future land use plan.

Staff finding: The proposed amendment will not result in an incompatible land use designation with adjacent parcels, the neighborhood or overall character of the future land use plan. The proposed *Residential Low Intensity* (0-4 units/acre) designation will provide for a single-family residence and is therefore compatible with the surrounding residential low-density (single-family) space land uses.

4. The amendment shall not decrease the LOS Standards for public facilities adopted in Policy 9-1.3 of the City's Comprehensive Plan.

Staff finding: The proposed land use amendment is density neutral, therefore, no increase demand on public facilities is anticipated.

V. CONCLUSION:

The proposed land use amendment is consistent with overall goals, objectives, and Policies of the Daytona Beach Shores Comprehensive Plan (2030).



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING JUNE 22, 2021

**6:00 PM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118**

Notice is hereby given to all interested parties that if any person should decide to appeal any decision made at the aforementioned meeting of the P&Z Board, such person will need a recording of the proceedings conducted at such meeting, and for such purpose he or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the City Clerk, City of Daytona Beach Shores, at least five working days prior to the meeting.

PLANNING & ZONING BOARD AGENDA MEMORANDUM JUNE 22, 2021 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2021-05: Single-family residential rezoning application for annexed property located at 2924 S. Peninsula Drive

SYNOPSIS:

Ordinance 2021-05, if adopted, would amend the City's Official Zoning Map by assigning the "RSF-2 Urban Single-Family Residential Detached District" to the annexing single-family residential property located at 2924 S. Peninsula Drive (**Exhibit A**). The application (**Exhibit B**) was submitted by Shane McGill and Erica Smith, owners of the subject property, and is a requirement of Florida Law when a property is annexed. The property is 0.308 acres and is occupied by a 2,835 square foot structure. The proposed amendment is compatible with the current Volusia County zoning district (R-3, Urban Single-Family Residential District).

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

The subject property, located at 2924 S. Peninsula Drive, is currently in the process of being annexed into the corporate limits of the City of Daytona Beach Shores. However, Section 171.062, Florida Statutes limits regulatory and development control over an annexing property if the area annexed was subject to a county land use plan and county zoning such that said regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment and zoning change that includes the annexed area. The purpose of this application is to realize the latter. The property owners have also submitted an application to amend the future land use classification of the property in question to Residential Low Intensity, consistent with the existing and surrounding land uses and current Volusia County Urban Low Intensity future land use classification. The zoning change will be adopted subsequent to the formal future land use amendment of the subject property.

B. PLANNING ANALYSIS

See **Exhibit C** for planning analysis.

LEGAL REVIEW:

Approved as to form and content.

RECOMMENDATION:

On June 14, 2021 the Planning and Zoning Board unanimously recommended approval of Ordinance 2021-05. Staff recommends approval of Ordinance 2021-05 as presented.

SUGGESTED MOTION:

A City Council member may motion as follows:

1. "I move to **approve** Ordinance 2021-05 as presented."

OR

2. "I move to approve Ordinance 2021-05, with the following amendments..."

OR

3. "I move to deny Ordinance 2021-05, on the basis of the following..."

ATTACHMENT:

1. Ord. 2021-05-RZ 2924 S. Peninsula Drive
2. Exhibit A-Location Map
3. Exhibit B-Application
4. Exhibit C-2924 S. Peninsula Drive-Rezoning (P&Z Staff Report)

ORDINANCE NO. 2021-05

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, ASSIGNING THE RSF-2 URBAN SINGLE-FAMILY RESIDENTIAL DETACHED DISTRICT ZONING CLASSIFICATION TO ANNEXED SINGLE-FAMILY RESIDENTIAL PROPERTY GENERALLY LOCATED 2924 S. PENINSULA DRIVE, SHORT TAX PARCEL ID 5327-09-00-0200; PROVIDING MODIFICATION OF THE OFFICIAL ZONING MAP; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR NON-CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Daytona Beach Shores is committed to planning and managing the future growth of the City; and

WHEREAS, the property described in Section One herein was annexed into the City of Daytona Beach Shores on June 22, 2021, and an appropriate City zoning classification must be assigned to the real property in accordance with the requirements of controlling law; and

WHEREAS, the City Council of the City of Daytona Beach Shores has received recommendation from staff and the Planning and Zoning Board for the assignment of zoning classification to said annexed property and has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds such rezoning consistent with the *City of Daytona Beach Shores Comprehensive Plan* and deems it in the best interest of the inhabitants of said City to amend the Official Zoning Map as hereinafter set forth,

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

SECTION ONE: REZONING OF REAL PROPERTY. The property described hereinafter which was annexed into the City of Daytona Beach Shores pursuant to Ordinance No. 2021-03 is hereby rezoned and assigned the Daytona Beach Shores zoning classification as follows:

Short Tax Parcel ID #5327-09-00-0200, as described in Exhibit “A” as attached, is assigned the RSF-2, Urban Single-Family Residential Detached District Zoning Classification.

SECTION TWO: AMENDMENT OF OFFICIAL ZONING MAP. The Official City Zoning Map is hereby amended to conform with the rezoning assigned herein.

SECTION THREE. IMPLEMENTING ADMINISTRATIVE ACTIONS. The City Manager, or designee, is authorized to take any and all required administrative actions to

implement the provisions of this Ordinance including, but not limited to, providing notice of this rezoning to the Volusia County Council in accordance with applicable law.

SECTION FOUR. NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shores* or the *Land Development Code of the City of Daytona Beach Shores*; provided, however, that the actions taken herein shall be depicted on the Official Zoning Map of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION FIVE: 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.

EXHIBIT A

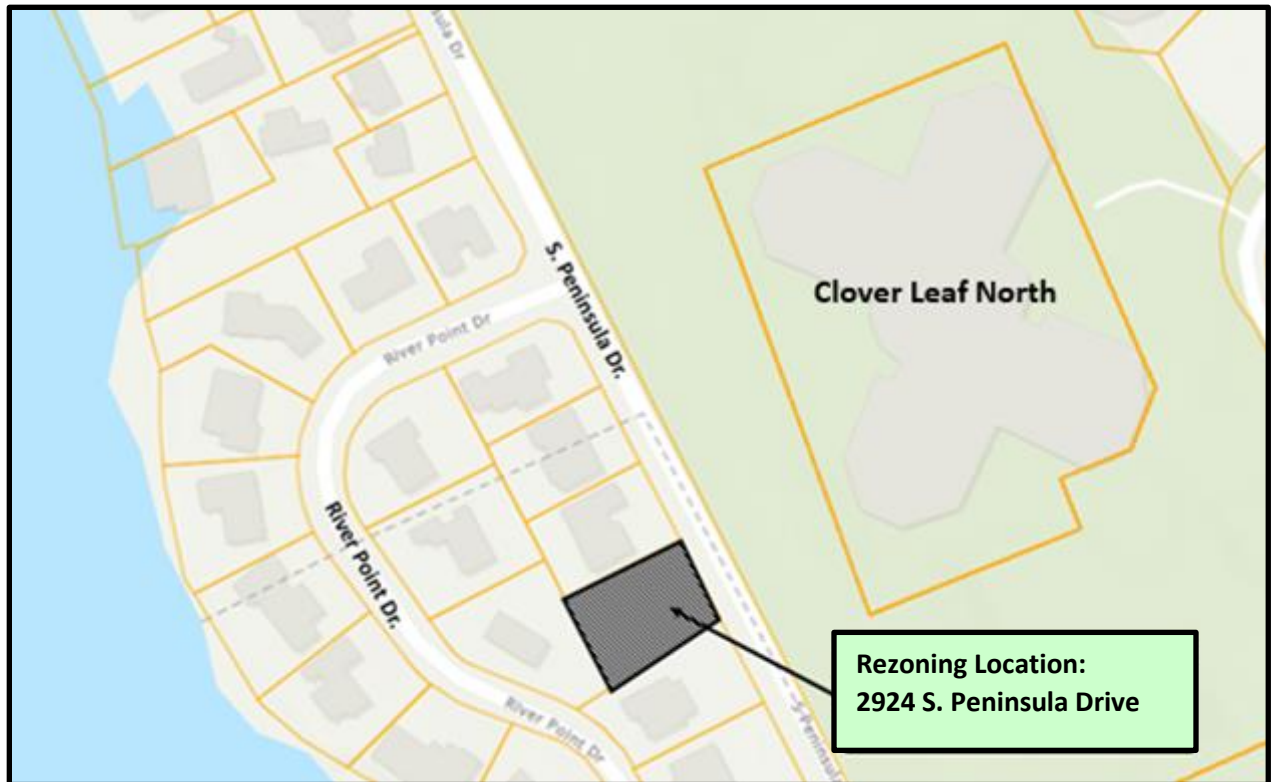
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CONTAINING 0.308 ACRES, MORE OR LESS.

TOGETHER WITH A PORTION OF SOUTH PENINSULA DRIVE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1823, PAGE 366, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

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CONTAINING 0.168 ACRES, MORE OR LESS.

LOCATION MAP: 2924 S. Peninsula Drive





City of Daytona Beach Shores
Community Services Department
2990 South Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377

637085

RECEIVED

APR 23 2021

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

12021010

APPLICATION TO AMEND ZONING MAP

The Undersigned Applicant requests the Planning and Zoning Board and City Council to decide upon this application in accordance with Section 14-66 and 14-67 of the Land Development Code.

FEES MUST BE PAID AT THE TIME THE APPLICATION IS SUBMITTED

Date Submitted: 4/23/2021

Current Zoning: Single family - Volusia County

Requested Zoning: Single family, Dayton Beach Shores

Applicant's Name: Erica Smith Shane McGill

Address: 2924 S Peninsula Dr. Daytona Beach Phone #: 860-501-2520

Representative: _____

Address: _____ Phone #: _____

Property Address & Parcel ID: 2924 S Peninsula Dr. Daytona Beach, FL 32118

Property Owner: Shane McGill and Erica

NOTE: If applicant is not property owner, attach a notarized statement of authorization

Legal Description of Property:

Lot 20 River Point Sub MB 34 PG 113 Per or 5204 PG
or 5318 PG 2680 Per or 5335 PG 4282 Per or 6392 PG
1057 Per or 7715 PG 4998 per or 7885 PG 2613

Shane McGill
Applicant's Signature

Shane McGill

Erica Smith
Erica Smith

4/23/2021
Date

shanemcgill@rocketmail.com

THE PLANNING & ZONING BOARD WILL APPLY THE CRITERIA IN SECTION 14-66(4) OF THE LAND DEVELOPMENT CODE WHEN CONSIDERING ZONING MAP AMENDMENTS. PLEASE EXPLAIN HOW YOUR REQUEST MEETS THE FOLLOWING CRITERIA: (YOU MAY ATTACH ADDITIONAL SHEETS)

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

The property is a existing single family home and will have a neutral enviromental impact

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

A favorable impact.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

We are currently connected to Daytona Beach Shores sewer, and Port Orange water. Our children are all adults, and we shouldn't need to use the school system.

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

No, single family home.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

We both work from home.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

Yes

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

No

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

No

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

Neutral

10. Would the proposed changes constitute "spot zoning"?

No, the adjacent property to the east is within
Daytona Beach Shores.

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

No

12. Is the change solely for the benefit of the owner and to the detriment of the community?

No

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

No, we enjoy being active in our community. We look forward to being involved in the shores.

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

No

EXHIBIT C
PLANNING ANALYSIS
Ordinance 2021-05

A. INTRODUCTION

The proposed application/ordinance if approved would change the zoning district classification of the annexing single-family residential property located at 2924 S. Peninsula Drive from Volusia County *R-3 Urban Single-Family Residential District* to Daytona Beach Shores *RSF-2 Urban Single-Family Residential Detached District*. The subject application was submitted on April 23, 2021. The subject property contains an acreage of approximately 0.308 and has a single-family residential structure on site.

B. EXISTING ZONING AND CURRENT LAND USE

Table 1 below provides a narrative description of the zoning district classifications and current land uses (i.e., existing development) for the subject property and surrounding area while **Figure 1** provides an aerial view of the subject property and surrounding land uses and **Figure 2** is a zoning map of the same while **Figure 3** provides a street view of the property in question.

Table 1: Zoning and Land Use Area Description

Location	Zoning	Current Land Use
Subject Property	R-3*	Single Family Residence
North	R-3	Single Family Residence
South	R-3	Single Family Residence
East	PUD+	Single Family Residence
West	R-3	Single Family Residence

Notes: *R-3 = Volusia County *Urban Single-Family Residential District*; + PUD = Daytona Beach Shores *Planned Unit Development District*.

Figure 1: Aerial View-2924 S. Peninsula Drive and Surrounding Neighborhood



Source: Volusia County Property Appraiser, 2021

Figure 2: 2924 S. Peninsula – Zoning Map Of Surrounding Neighborhood

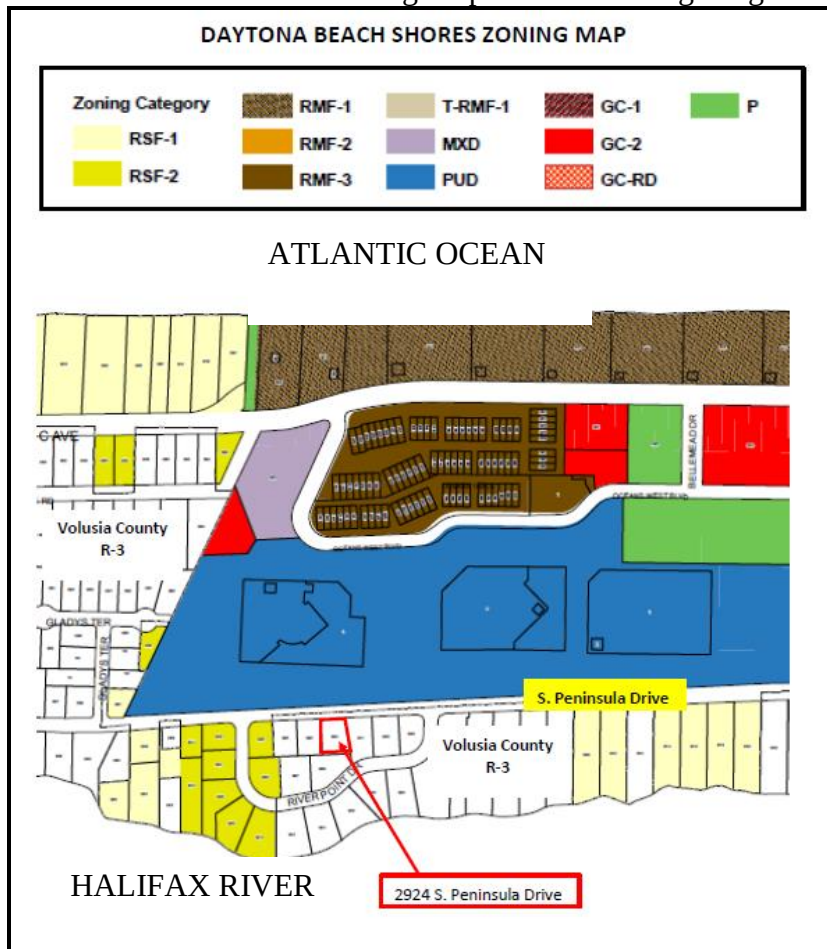


Figure 3: 2924 S. Peninsula Drive – Street View



Source: GoogleMaps, 2018

As noted in **Table 1** above, the subject property is currently zoned Volusia County R-3 Urban Single-Family Residential District. According to the Volusia County Land Development Code, the purpose, intent and permitted uses of the existing zoning district is as follows:

“R-3 Urban Single-Family Residential District”:

Purpose and intent: The purpose and intent of the R-3 Urban Single-Family Residential Classification, is to provide medium-low-density residential developments, preserving the character of existing or proposed residential neighborhoods.

Permitted principal uses and structure: In the R-3 Urban Single-Family Residential Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

Cluster and zero lot line subdivisions.

Communication towers not exceeding 70 feet in height above ground level.

Essential utility services.

Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.

Exempt landfills.

Fire stations.

Home occupations, class A.

Houses of worship.

Parks and recreational areas accessory to residential developments.

Public schools.

Publicly owned parks and recreational areas.

Publicly owned or regulated water supply wells.

Single-family standard or manufactured modular dwelling.

C. PROPOSED ZONING

The proposed zoning for the subject property is RSF-2 Urban Single-Family Residential Detached District. According to the Daytona Beach Shores Land Development Code, the purpose, intent and permitted uses of the proposed zoning district is as follows:

“RSF-2 Urban Single-Family Residential Detached District”:

Purpose and Intent: The purpose and intent of the RSF-2 Urban Single-Family Residential Detached District is to provide medium residential density for the purpose of preserving the character of existing residential neighborhoods and generally implementing the city's land use plan within, but not necessarily limited to, those areas shown for single-family use.

14-17.2. Permitted Principal Uses and Structures:

Single-family dwelling.

Telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq.

14-17.3. Permitted Accessory Uses and Structures.

Home occupations regulated by section 14-45 and other accessory uses or structures customarily incidental to the permitted principal use or structure.

D. COMPREHENSIVE PLAN

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Residential Low Intensity* future land use (FLU) classification to the subject property. This FLU classification allows up to four (4) residential units per acre, which is same as the current Volusia County *Urban Low Intensity* FLU for the property in question. Therefore, the existing acreage and proposed zoning will restrict the use to one single-family residential unit.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The proposed future land use and proposed zoning are not objectionable or inconsistent with the future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is consistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

E. REVIEW AND COMMENTS

The subject application was initiated by the property owners, Shane McGill and Erica Smith. The subject property is located at 2924 S. Peninsula Drive (S.R. 441) and has an acreage of 0.308+/- . The site has vehicular and pedestrian access to the abutting S. Peninsula Drive which connects to S.R. A1A (Dunlawton Avenue) and US92 International Speedway Boulevard. S. Peninsula Drive also intersects several collector roads, which connect to S.R. A1A (S. Atlantic Avenue).

The proposed zoning change will be consistent with the previous Volusia County zoning and adjacent zoning district classifications. The property is currently occupied with a single-family residential structure. According to the property owner, no redevelopment is intended and the proposed change is density neutral.

Since the application in question regards a single-family residential property, it is exempt from the City's Concurrency Review Process as it does not substantially impact any of the City's public facilities or infrastructure. Further, adequate potable water, sewer, solid waste, recreation, public school and transportation facility capacities are currently available and serve the subject property.

F. FINDING OF FACTS

When considering a request to change zoning, the Planning and Zoning Board shall consider the following criteria pursuant to Section 14-66 of the Land Development Code. Below are staff's

findings considering each criterion outlined in the aforementioned section of the Code. The applicant's responses to the criteria are attached in the **Exhibit B** (owner's application).

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

The proposed zoning change will not provide an unfavorable impact on the environment or natural resources of the area. The property in question is currently developed with a single-family residential structure. If redeveloped, consistency with the City's Land Development Code will be required. Further, the proposed zoning change would not permit hazardous uses such as industry, which could have an unfavorable impact on the environment and natural resources of the area.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

The proposed zoning will generally have a neutral impact on the economy of the area as the property is currently developed and no redevelopment or change in entitlement is sought. The zoning is also consistent with the Volusia County Zoning District classification and the proposed zoning change is density and use neutral.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

The subject property is currently developed as a single-family residence. This existing use will not unduly burden public facilities. The subject property is currently being served with or has access to transportation, public schools, water, sewer, and solid waste disposal services. All existing public facilities have adequate capacity and the proposed rezoning will not provide any more impact on said facilities than the current Volusia County Zoning currently permits (see **Table 2** below).

Table 2: Impact Analysis (Theoretical Max.)

Development Variable	Current Future Land Use (0.2-4 units/acre)	Proposed Future Land Use (0.2-4 units/acre)	Change
Residential Units Allowed	2	2	None
Population ¹	3.5	3.5	None
AM / PM Peak Hour Trips ²	1.5/2.02	1.5/2.02	None
Sanitary Sewer (gallons/day) ³	500	500	None
Potable Water (gallons/day) ⁴	385	385	None
Solid Waste (lbs./person) ⁵	35	35	None
Stormwater Drainage ⁶	n/a	n/a	n/a
Recreation/Open Space	See summary below	See summary below	None
Public School Student(s)	0.8	0.8	None

Notes:

1. Population: 1.75 persons per single-family dwelling
2. Transportation: Rates are for peak hour of adjacent street traffic

- | | |
|-------------------------|--|
| | Single-family residential unit = 0.75 AM trips, 1.01 PM trips |
| 3. Sanitary Sewer: | 250 gallons per dwelling unit per day |
| 4. Potable Water: | 110 gallons per capita per day |
| 5. Solid Waste: | 10 pounds per capita per day |
| 6. Stormwater Drainage: | LOS standard = 25 year, 24 hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code. |
| 7. Public School: | Generation rates = 0.396 per single-family unit. |

Sources:

2010 US Census

ITE Trip Generation Manual, 7th Edition

Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030)

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

The proposed zoning will not unduly burden transportation facilities. There is already adequate vehicular access from the abutting S. Peninsula Drive road and the existing system of local, collector and arterial road network. The adjacent transportation network currently operates above the adopted level of services.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

The proposed zoning change involves a single-family residential property being rezoned to a Daytona Beach Shores compatible single-family residential zoning district classification. Hence, the rezoning will not impact the ability of people to find adequate housing since the change will neither create new housing nor eliminate existing housing stock.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Residential Low Intensity* future land use (FLU) classification to the subject property. This FLU classification allows up to four (4) residential units per acre, which is same as the current Volusia County *Urban Low Intensity* FLU for the property in question.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The existing single-family residence, proposed future land use and proposed zoning are not objectionable or inconsistent with the future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is consistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

The physical, economic or environmental conditions relative to the property in question and the surrounding area have not changed so as to require a zoning change. However, the subject property is being annexed into the City through the voluntary annexation process pursuant to Section 171.044, *Florida Statutes*. However, Section 171.062, *Florida Statutes* limits regulatory and development control over an annexing property if the area annexed was subject to a county land use plan and county zoning and said regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment that includes the annexed area, hence, the purpose of this application to amend the zoning classification of the subject property.

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

There was no mistake made in the original zoning of the property. The property is being annexed into the City from unincorporated Volusia County; therefore the appropriate City zoning classification must be assigned so that the City may provide developmental and regulatory control.

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

The proposed zoning change is consistent with the existing Volusia County zoning district classification and is density and use neutral. Therefore, the proposed change will maintain a stabilizing effect on the surrounding areas.

10. Would the proposed changes constitute "spot zoning"?

Spot zoning generally occurs when an individual parcel is assigned a zoning classification that is incompatible with the surrounding area. However, the proposed zoning change is consistent with the existing Volusia County zoning district classification in the area and the amendment is density and use neutral. Further, the proposed zoning classification will provide an existing use that is identical to the City's and County's zoning classification in the neighborhood. Therefore, the proposed change does not constitute spot zoning.

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

The proposed change involves rezoning one individual property which is being annexed into the City's corporate limits. The proposed zoning classification is consistent with the existing neighborhoods use, future land use and zoning classifications. Therefore, the proposed change is not the singling out of a small parcel of land allowing a use that is totally different from that of the surrounding area.

12. Is the change solely for the benefit of the owner and to the detriment of the community?

The proposed change involves rezoning one individual property which is being annexed into the City's corporate limits. The proposed zoning classification is consistent with the existing neighborhood uses, future land use and zoning classifications. Therefore, the proposed change would not be solely for the benefit of the owner and to the detriment of the community but instead the change would benefit the entire community by maintaining the existing land use of the property and the integrity of the neighborhood.

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

The proposed change is consistent with the neighborhood existing and future land uses and therefore serves the entire community by maintaining the neighborhood's single-family residential characteristics.

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

The rezoning will not materially diminish the value of the surrounding properties or substantially alter the characteristics of the neighborhood since the proposed rezoning will ensure the single-family nature of the community is maintained.



**CITY COUNCIL AGENDA MEMORANDUM
JUNE 22, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council

FROM: John Cary, City Attorney

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Resolution 2021-04 to have the city join as a participant in a unified plan regarding the opioid epidemic

SYNOPSIS:

FISCAL IMPACT STATEMENT:

BACKGROUND:

This Resolution authorizes the City to join the "Florida Plan" regarding a potential settlement of the opioid lawsuit. It authorizes the City to enter into a Memorandum of Understanding with the state and political subdivisions of the state should a settlement be reached.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Approve the Resolution and the MOU at the appropriate time.

SUGGESTED MOTION:

I move to adopt Resolution 2021-04 on first reading.

ATTACHMENT:

1. Opioid MOU (Exhibit A)
2. 2021-04 Opioid Memorandum of Understanding

PROPOSAL
MEMORANDUM OF UNDERSTANDING

Whereas, the people of the State of Florida and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain;

Whereas, the State of Florida, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance;

Whereas, the State of Florida and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Florida;

Whereas, it is the intent of the State of Florida and its Local Governments to use the proceeds from Settlements with Pharmaceutical Supply Chain Participants to increase the amount of funding presently spent on opioid and substance abuse education, treatment and other related programs and services, such as those identified in Exhibits A and B, and to ensure that the funds are expended in compliance with evolving evidence-based “best practices”;

Whereas, the State of Florida and its Local Governments, subject to the completion of formal documents that will effectuate the Parties’ agreements, enter into this Memorandum of Understanding (“MOU”) relating to the allocation and use of the proceeds of Settlements described herein; and

Whereas, this MOU is a preliminary non-binding agreement between the Parties, is not legally enforceable, and only provides a basis to draft formal documents which will effectuate the Parties’ agreements.

A. Definitions

As used in this MOU:

1. “Approved Purpose(s)” shall mean forward-looking strategies, programming and services used to expand the availability of treatment for individuals impacted by substance use disorders, to: (a) develop, promote, and provide evidence-based substance use prevention strategies; (b) provide substance use avoidance and awareness education; (c) decrease the oversupply of licit and illicit opioids; and (d) support recovery from addiction. Approved Purposes shall include, but are not limited to, the opioid abatement strategies listed on Exhibits A and B which are incorporated herein by reference.

2. “Local Governments” shall mean all counties, cities, towns and villages located within the geographic boundaries of the State.

3. “Managing Entities” shall mean the corporations selected by and under contract with the Florida Department of Children and Families or its successor (“DCF”) to manage the

daily operational delivery of behavioral health services through a coordinated system of care. The singular “Managing Entity” shall refer to a singular of the Managing Entities.

4. “County” shall mean a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

5. “Municipalities” shall mean cities, towns, or villages of a County within the State with a Population greater than 10,000 individuals and shall also include cities, towns or villages within the State with a Population equal to or less than 10,000 individuals which filed a Complaint in this litigation against Pharmaceutical Supply Chain Participants. The singular “Municipality” shall refer to a singular of the Municipalities.

6. “Negotiating Committee” shall mean a three-member group comprised by representatives of the following: (1) the State; and (2) two representatives of Local Governments of which one representative will be from a Municipality and one shall be from a County (collectively, “Members”) within the State. The State shall be represented by the Attorney General or her designee.

7. “Negotiation Class Metrics” shall mean those county and city settlement allocations which come from the official website of the Negotiation Class of counties and cities certified on September 11, 2019 by the U.S. District for the Northern District of Ohio in *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio). The website is located at <https://allocationmap.iclaimsonline.com>.

8. “Opioid Funds” shall mean monetary amounts obtained through a Settlement as defined in this MOU.

9. “Opioid Related” shall have the same meaning and breadth as in the agreed Opioid Abatement Strategies attached hereto as Exhibits A or B.

10. “Parties” shall mean the State and Local Governments. The singular word “Party” shall mean either the State or Local Governments.

11. “PEC” shall mean the Plaintiffs’ Executive Committee of the National Prescription Opiate Multidistrict Litigation pending in the United States District Court for the Northern District of Ohio.

12. “Pharmaceutical Supply Chain” shall mean the process and channels through which Controlled Substances are manufactured, marketed, promoted, distributed or dispensed.

13. “Pharmaceutical Supply Chain Participant” shall mean any entity that engages in, or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic.

14. “Population” shall refer to published U.S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this MOU. These estimates can currently be found at <https://www.census.gov>

15. “Qualified County” shall mean a charter or non-chartered county within the State that: has a Population of at least 300,000 individuals and (a) has an opioid taskforce of which it is a member or operates in connection with its municipalities or others on a local or regional basis; (b) has an abatement plan that has been either adopted or is being utilized to respond to the opioid epidemic; (c) is currently either providing or is contracting with others to provide substance abuse prevention, recovery, and treatment services to its citizens; and (d) has or enters into an agreement with a majority of Municipalities (Majority is more than 50% of the Municipalities’ total population) related to the expenditure of Opioid Funds. The Opioid Funds to be paid to a Qualified County will only include Opioid Funds for Municipalities whose claims are released by the Municipality or Opioid Funds for Municipalities whose claims are otherwise barred.

16. “SAMHSA” shall mean the U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration.

17. “Settlement” shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the State and Local Governments or a settlement class as described in (B)(1) below.

18. “State” shall mean the State of Florida.

B. Terms

1. **Only Abatement** - Other than funds used for the Administrative Costs and Expense Fund as hereinafter described in paragraph 6 and paragraph 9, respectively), all Opioid Funds shall be utilized for Approved Purposes. To accomplish this purpose, the State will either file a new action with Local Governments as Parties or add Local Governments to its existing action, sever settling defendants, and seek entry of a consent order or other order binding both the State, Local Governments, and Pharmaceutical Supply Chain Participant(s) (“Order”). The Order may be part of a class action settlement or similar device. The Order shall provide for continuing jurisdiction of a state court to address non-performance by any party under the Order. Any Local Government that objects to or refuses to be included under the Order or entry of documents necessary to effectuate a Settlement shall not be entitled to any Opioid Funds and its portion of Opioid Funds shall be distributed to, and for the benefit of, the other Local Governments.

2. **Avoid Claw Back and Recoupment** - Both the State and Local Governments wish to maximize any Settlement and Opioid Funds. In addition to committing to only using funds for the Expense Funds, Administrative Costs and Approved Purposes, both Parties will agree to utilize a percentage of funds for the core strategies highlighted in Exhibit A. Exhibit A contains the programs and strategies prioritized by the U.S. Department of Justice and/or the U.S. Department of Health & Human Services (“Core Strategies”). The State is trying to obtain the United States’ agreement to limit or reduce the United States’ ability to recover or recoup monies from the State and Local Government in exchange for prioritization of funds to certain projects. If no agreement is reached with the United States, then there will be no requirement that a percentage be utilized for Core Strategies.

3. **Distribution Scheme** - All Opioid Funds will initially go to the State, and then be distributed according to the following distribution scheme. The Opioid Funds will be divided into three funds after deducting costs of the Expense Fund detailed in paragraph 9 below:

- (a) City/County Fund- The city/county fund will receive 15% of all Opioid Funds to directly benefit all Counties and Municipalities. The amounts to be distributed to each County and Municipality shall be determined by the Negotiation Class Metrics or other metrics agreed upon, in writing, by a County and a Municipality. For Local Governments that are not within the definition of County or Municipality, those Local Governments may receive that government's share of the City/County Fund under the Negotiation Class Metrics, if that government executes a release as part of a Settlement. Any Local Government that is not within the definition of County or Municipality and that does not execute a release as part of a Settlement shall have its share of the City/County Fund go to the County in which it is located.
- (b) Regional Fund- The regional fund will be subdivided into two parts.
 - (i) The State will annually calculate the share of each County within the State of the regional fund utilizing the sliding scale in section 4 of the allocation contained in the Negotiation Class Metrics or other metrics that the Parties agree upon.
 - (ii) For Qualified Counties, the Qualified County's share will be paid to the Qualified County and expended on Approved Purposes, including the Core Strategies identified in Exhibit A, if applicable.
 - (iii) For all other Counties, the regional share for each County will be paid to the Managing Entities providing service for that County. The Managing Entities will be required to expend the monies on Approved Purposes, including the Core Strategies. The Managing Entities shall endeavor to the greatest extent possible to expend these monies on counties within the State that are non-Qualified Counties and to ensure that there are services in every County.
- (c) State Fund - The remainder of Opioid Funds after deducting the costs of the Expense Fund detailed in paragraph 9, the City/County Fund and the Regional Fund will be expended by the State on Approved Purposes, including the provisions related to Core Strategies, if applicable.
- (d) To the extent that Opioid Funds are not appropriated and expended in a year by the State, the State shall identify the investments where settlement funds will be deposited. Any gains, profits, or interest accrued from the deposit of the Opioid Funds to the extent that any funds are not appropriated and expended within a calendar year, shall be the sole property of the Party that was entitled to the initial deposit.

4. Regional Fund Sliding Scale- The Regional Fund shall be calculated by utilizing the following sliding scale of the Opioid Funds available in any year:

- A. Years 1-6: 40%
- B. Years 7-9: 35%
- C. Years 10-12: 34%
- D. Years 13-15: 33%
- E. Years 16-18: 30%

5. Opioid Abatement Taskforce or Council - The State will create an Opioid Abatement Taskforce or Council (sometimes hereinafter “Taskforce” or “Council”) to advise the Governor, the Legislature, Florida’s Department of Children and Families (“DCF”), and Local Governments on the priorities that should be addressed as part of the opioid epidemic and to review how monies have been spent and the results that have been achieved with Opioid Funds.

- (a) Size - The Taskforce or Council shall have ten Members equally balanced between the State and the Local Governments.
- (b) Appointments Local Governments - Two Municipality representatives will be appointed by or through Florida League of Cities. Two county representatives, one from a Qualified County and one from a county within the State that is not a Qualified County, will be appointed by or through the Florida Association of Counties. The final representative will alternate every two years between being a county representative (appointed by or through Florida Association of Counties) or a Municipality representative (appointed by or through the Florida League of Cities). One Municipality representative must be from a city of less than 50,000 people. One county representative must be from a county less than 200,000 people and the other county representative must be from a county whose population exceeds 200,000 people.
- (c) Appointments State -
 - (i) The Governor shall appoint two Members.
 - (ii) The Speaker of the House shall appoint one Member.
 - (iii) The Senate President shall appoint one Member.
 - (iv) The Attorney General or her designee shall be a Member.
- (d) Chair - The Attorney General or designee shall be the chair of the Taskforce or Council.
- (e) Term - Members will be appointed to serve a two-year term.

- (f) Support - DCF shall support the Taskforce or Council and the Taskforce or Council shall be administratively housed in DCF.
- (g) Meetings - The Taskforce or Council shall meet quarterly in person or virtually using communications media technology as defined in section 120.54(5)(b)(2), Florida Statutes.
- (h) Reporting - The Taskforce or Council shall provide and publish a report annually no later than November 30th or the first business day after November 30th, if November 30th falls on a weekend or is otherwise not a business day. The report shall contain information on how monies were spent the previous fiscal year by the State, each of the Qualified Counties, each of the Managing Entities, and each of the Local Governments. It shall also contain recommendations to the Governor, the Legislature, and Local Governments for priorities among the Approved Purposes for how monies should be spent the coming fiscal year to respond to the opioid epidemic.
- (i) Accountability - Prior to July 1st of each year, the State and each of the Local Governments shall provide information to DCF about how they intend to expend Opioid Funds in the upcoming fiscal year. The State and each of the Local Government shall report its expenditures to DCF no later than August 31st for the previous fiscal year. The Taskforce or Council will set other data sets that need to be reported to DCF to demonstrate the effectiveness of Approved Purposes. All programs and expenditures shall be audited annually in a similar fashion to SAMHSA programs. Local Governments shall respond and provide documents to any reasonable requests from the State for data or information about programs receiving Opioid Funds.
- (j) Conflict of Interest - All Members shall adhere to the rules, regulations and laws of Florida including, but not limited to, Florida Statute §112.311, concerning the disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

6. **Administrative Costs**- The State may take no more than a 5% administrative fee from the State Fund (“Administrative Costs”) and any Regional Fund that it administers for counties that are not Qualified Counties. Each Qualified County may take no more than a 5% administrative fee from its share of the Regional Funds.

7. **Negotiation of Non-Multistate Settlements** - If the State begins negotiations with a Pharmaceutical Supply Chain Participant that is separate and apart from a multi-state negotiation, the State shall include Local Governments that are a part of the Negotiating Committee in such negotiations. No Settlement shall be recommended or accepted without the affirmative votes of both the State and Local Government representatives of the Negotiating Committee.

8. **Negotiation of Multistate or Local Government Settlements** - To the extent practicable and allowed by other parties to a negotiation, both Parties agree to communicate with

members of the Negotiation Committee regarding the terms of any other Pharmaceutical Supply Chain Participant Settlement.

9. **Expense Fund** - The Parties agree that in any negotiation every effort shall be made to cause Pharmaceutical Supply Chain Participants to pay costs of litigation, including attorneys' fees, in addition to any agreed to Opioid Funds in the Settlement. To the extent that a fund sufficient to pay the entirety of all contingency fee contracts for Local Governments in the State of Florida is not created as part of a Settlement by a Pharmaceutical Supply Chain Participant, the Parties agree that an additional expense fund for attorneys who represent Local Governments (herein "Expense Fund") shall be created out of the City/County fund for the purpose of paying the hard costs of a litigating Local Government and then paying attorneys' fees.

- (a) The Source of Funds for the Expense Fund- Money for the Expense Fund shall be sourced exclusively from the City/County Fund.
- (b) The Amount of the Expense Fund- The State recognizes the value litigating Local Governments bring to the State of Florida in connection with the Settlement because their participation increases the amount Incentive Payments due from each Pharmaceutical Supply Chain Participant. In recognition of that value, the amount of funds that shall be deposited into the Expense fund shall be contingent upon on the percentage of litigating Local Government participation in the Settlement, according to the following table:

Litigating Local Government Participation in the Settlement (by percentage of the population)	Amount that shall be paid into the Expense Fund from (and as a percentage of) the City/County fund
96 to 100%	10%
91 to 95%	7.5%
86 to 90%	5%
85%	2.5%
Less than 85%	0%

If fewer than 85% percent of the litigating Local Governments (by population) participate, then the Expense Fund shall not be funded, and this Section of the MOU shall be null and void.

- (c) The Timing of Payments into the Expense Fund- Although the amount of the Expense Fund shall be calculated based on the entirety of payments due to the City/County fund over a ten to eighteen year period, the Expense Fund shall be funded entirely from payments made by Pharmaceutical Supply Chain Participants during the first two years of the Settlement. Accordingly, to offset the amounts being paid from the City/County to the Expense Fund in the first two years, Counties or Municipalities may borrow from the Regional Fund during the first two years and pay the borrowed amounts back to the Regional Fund during years three, four, and five.

For the avoidance of doubt, the following provides an illustrative example regarding the calculation of payments and amounts that may be borrowed under the terms of this MOU, consistent with the provisions of this Section:

Opioid Funds due to State of Florida and Local Governments (over 10 to 18 years):	\$1,000
Litigating Local Government Participation:	100%
City/County Fund (over 10 to 18 years):	\$150
Expense Fund (paid over 2 years):	\$15
Amount Paid to Expense Fund in 1st year:	\$7.5
Amount Paid to Expense Fund in 2nd year:	\$7.5
Amount that may be borrowed from Regional Fund in 1st year:	\$7.5
Amount that may be borrowed from Regional Fund in 2nd year:	\$7.5
Amount that must be paid back to Regional Fund in 3rd year:	\$5
Amount that must be paid back to Regional Fund in 4th year:	\$5
Amount that must be paid back to Regional Fund in 5th year:	\$5

- (d) Creation of and Jurisdiction over the Expense Fund- The Expense Fund shall be established, consistent with the provisions of this Section of the MOU, by order of the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, West Pasco Division New Port Richey, Florida, in the matter of *The State of Florida, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma L.P., et al.*, Case No. 2018-CA-001438 (the “Court”). The Court shall have jurisdiction over the Expense Fund, including authority to allocate and disburse amounts from the Expense Fund and to resolve any disputes concerning the Expense Fund.
- (e) Allocation of Payments to Counsel from the Expense Fund- As part of the order establishing the Expense Fund, counsel for the litigating Local Governments shall seek to have the Court appoint a third-neutral to serve as a special master for purposes of allocating the Expense Fund. Within 30 days of entry of the order appointing a special master for the Expense Fund, any counsel who intend to seek an award from the Expense Fund shall provide the copies of their contingency fee contracts to the special master. The special master shall then build a mathematical model, which shall be based on each litigating Local Government’s share under the Negotiation Class Metrics and the rate set forth in their contingency contracts, to calculate a proposed award for each litigating Local Government who timely provided a copy of its contingency contract.

10. **Dispute resolution**- Any one or more of the Local Governments or the State may object to an allocation or expenditure of Opioid Funds solely on the basis that the allocation or expenditure at issue (a) is inconsistent with the Approved Purposes; (b) is inconsistent with the distribution scheme as provided in paragraph 3, or (c) violates the limitations set forth herein with respect to administrative costs or the Expense Fund. There shall be no other basis for bringing an objection to the approval of an allocation or expenditure of Opioid Funds.

RESOLUTION 2021-xx

A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, TO JOIN WITH THE STATE OF FLORIDA AND OTHER LOCAL GOVERNMENTAL UNITS AS A PARTICIPANT IN THE FLORIDA MEMORANDUM OF UNDERSTANDING AND FORMAL AGREEMENTS IMPLEMENTING A UNIFIED PLAN REGARDING THE OPIOID EPIDEMIC; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Daytona Beach Shores, Florida, has suffered harm from the opioid epidemic; and

WHEREAS, the City of Daytona Beach Shores, Florida, recognizes that the entire State of Florida has suffered harm as a result from the opioid epidemic; and

WHEREAS, the State of Florida has filed an action pending in Pasco County, Florida, and a number of Florida cities and counties have also filed an action *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio) (hereinafter, the “Opioid litigation”); and

WHEREAS, the State of Florida and lawyers representing certain various local governments involved in the Opioid litigation have proposed a unified plan for the allocation and use of prospective settlement dollars from opioid-related litigation; and

WHEREAS, the Florida Memorandum of Understanding (the “Florida Plan”) sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds and it is anticipated that the formal agreements implementing the Florida Plan will be entered into at a future date; and

WHEREAS, participation in the Florida Plan by a large majority of Florida cities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiations; and

WHEREAS, failure to participate in the Florida Plan will reduce funds available to the State and every other Florida city and county.

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

SECTION 1. That this Governmental Unit finds that participation in the Florida Plan would be in the best interest of the City of Daytona Beach Shores and its citizens in that such a plan ensures that almost all of the settlement funds go to abate and resolve the opioid epidemic and each and every city and county receives funds for the harm that it has suffered.

SECTION 2. That this Governmental Unit hereby expresses its support of a unified plan for the allocation and use of opioid settlement proceeds as generally described in the Florida Plan, attached hereto as Exhibit "A."

SECTION 3. That the City of Daytona Beach Shores is hereby expressly authorized to execute the Florida Plan in substantially the form contained in Exhibit "A."

SECTION 4. That the City of Daytona Beach Shores is hereby authorized to execute any formal agreements implementing a unified plan for the allocation and use of opioid settlement proceeds that is not substantially inconsistent with the Florida Plan and this Resolution.

SECTION 5.

That the City Clerk be and hereby is instructed to record this Resolution in the appropriate record book upon its adoption.

SECTION 6.

The City Clerk of this Governmental Unit is hereby directed to furnish a certified copy of this Resolution to the Florida League of Cities, Florida Association of Counties, Attorney General Ashley Moody c/o John M. Guard, The Capitol, PL-01, Tallahassee, FL 32399-1050.

SECTION 7.

This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
DAYTONA BEACH SHORES, FLORIDA, THIS _____ DAY OF
_____, 2021.**

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 M. CARY, CITY ATTORNEY



CITY COUNCIL AGENDA MEMORANDUM

JUNE 22, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Kurt Swartzlander, Finance Director
PREPARED BY: Kurt Swartzlander, Finance Director
SUBJECT: Auditor Selection Committee

SYNOPSIS:

The City's current audit contract has expired and in order for the City to conduct future audits the city must create an auditor selection committee and determine membership of this committee. Staff is recommending that the city council appoint itself as the audit committee rather than creating a subcommittee that would make a recommendation to the city council. Since the city council will make the ultimate decision as to which auditing firm to hire this will greatly streamline the selection process.

FISCAL IMPACT STATEMENT:

BACKGROUND:

This is a requirement under Florida Statutes that an auditor selection committee be created by the city and used to select the firm which shall conduct future audits.

LEGAL REVIEW:

RECOMMENDATION:

Approve resolution 21-XX creating an Auditor Selection Committee with membership consisting of the city council.

SUGGESTED MOTION:

Motion to approve resolution 21-XX creating the auditor selection committee and establish membership of said committee.

ATTACHMENT:

1. Resolution 2021 Auditor Selection Committee
2. Florida Statute Section 218.391 Auditor Selection Committee

3. FGFOA Best Practices Audit

RESOLUTION 2021-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA CREATING A CITY OF DAYTONA BEACH SHORES AUDITOR SELECTION COMMITTEE TO IMPLEMENT CONTROLLING STATE LAW; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT CREATION; PROVIDING FOR MEMBERSHIP AND THE COMMITTEE'S PURPOSE, MEMBERSHIP, DUTIES, RESPONSIBILITIES AND MEETINGS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR IMPLEMENTING ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 218, Part III, *Florida Statutes*, contains the *Uniform Local Government Financial Management and Reporting Act*; and

WHEREAS, Section 218.391, *Florida Statutes*, provides that each local government shall establish an auditor selection committee to assist the governing body in selecting an auditor to conduct the annual financial audit required by Section 218.39, *Florida Statutes*; and

WHEREAS, the Florida Legislature requires the City's Auditor Selection Committee to consist of at least 3 members, and at least 1 must be a Member of the City Council who must serve as the Committee's chair and further provides that neither the City Manager nor any other City employee may serve as a member of the Auditor Selection Committee and may only act in an advisory capacity; and

WHEREAS, the City Council has determined that boards and committees and the like within City government be created by resolution as opposed to ordinance except in unusual circumstances or in the event that controlling law requires otherwise; and

WHEREAS, Section 2.11 of the *City Charter of the City of Daytona Beach Shores* relates to the general powers and duties of the City Council and provides that “[a]ll powers of the City shall be vested in the City Council except as otherwise provided by law and this Charter. The City Council shall be responsible for the reasonable exercise of those powers, and shall be required to

provide for the performance of all duties and obligations imposed on the city by law” and Section 3.01 of the *City Charter of the City of Daytona Beach Shores* relates to the powers and duties of the City Manager and provides, in pertinent part that “[t]here shall be a City Manager who shall be the chief administrative officer of the City. The Manager shall be responsible to the City Council for the administration of all affairs of the City”; and

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

WHEREAS, the foregoing whereas clauses are hereby adopted as the legislative findings of the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AS FOLLOWS:

SECTION 1. LEGISLATIVE FINDINGS AND INTENT.

- (a). The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Resolution the recitals (whereas clauses) to this Resolution.
- (b). Although not a land development regulation, this Resolution is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Daytona Beach Shores*.

SECTION 2. CREATION OF CITY AUDITOR SELECTION COMMITTEE; PURPOSE.

- (a). There is hereby established a City of Daytona Beach Shores Auditor Selection Committee to be composed of members of the City Council.
- (b). The purpose of the Auditor Selection Committee is to serve in an advisory capacity to the City Council in the selection of an auditor to conduct the City’s annual financial audit and for other purposes as directed by City Council.

SECTION 3. MEMBERSHIP.

The Auditor Selection Committee shall consist of the City Council.

SECTION 4. DUTIES AND RESPONSIBILITIES.

(a). The Auditor Selection Committee shall select an auditor, in accordance with the provisions of Section 218.391, *Florida Statutes*, and other controlling law, to conduct the City's annual financial audit required by Section 218.39, *Florida Statutes*, and to accomplish such other matters as may be directed by the City Council.

SECTION 5. MEETINGS.

The Auditor Selection Committee shall meet as often as necessary in order to adequately accomplish its duties.

SECTION 6. FUTURE IMPLEMENTING ACTIONS.

(a). The City Manager is assigned the responsibility to take any and all necessary administrative actions that may be desirable or necessary to implement the actions of the Auditor Selection Committee to be taken pursuant to the provisions of this Resolution.

(b). The City Attorney is instructed to assist the Auditor Selection Committee in the implementation of this Resolution.

SECTION 7. CONFLICTS. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 8. SEVERABILITY. If any section, sentence, phrase, word, or portion of this Resolution is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Resolution not otherwise to be invalid, unlawful, or unconstitutional.

SECTION 9. EFFECTIVE DATE. This Resolution shall take effect immediately upon passage and adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

MAYOR, NANCY J. MILLER

Attest:

CITY MANAGER, MICHAEL T. BOOKER

CITY CLERK, CHERI SCHWAB

Approved as to form and legality:

CITY ATTORNEY, BECKY VOSE

The 2020 Florida Statutes

[Title XIV](#)
TAXATION AND
FINANCE

[Chapter 218](#)
FINANCIAL MATTERS PERTAINING TO POLITICAL
SUBDIVISIONS

[View Entire
Chapter](#)

218.391 Auditor selection procedures.—

(1) Each local governmental entity, district school board, charter school, or charter technical career center, prior to entering into a written contract pursuant to subsection (7), except as provided in subsection (8), shall use auditor selection procedures when selecting an auditor to conduct the annual financial audit required in s. [218.39](#).

(2) The governing body of a county, municipality, special district, district school board, charter school, or charter technical career center shall establish an auditor selection committee.

(a) The auditor selection committee for a county must, at a minimum, consist of each of the county officers elected pursuant to the county charter or s. 1(d), Art. VIII of the State Constitution or their respective designees and one member of the board of county commissioners or its designee.

(b) The auditor selection committee for a municipality, special district, district school board, charter school, or charter technical career center must consist of at least three members. One member of the auditor selection committee must be a member of the governing body of an entity specified in this paragraph, who shall serve as the chair of the committee.

(c) An employee, a chief executive officer, or a chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not serve as a member of an auditor selection committee established under this subsection; however, an employee, a chief executive officer, or a chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may serve in an advisory capacity.

(d) The primary purpose of the auditor selection committee is to assist the governing body in selecting an auditor to conduct the annual financial audit required in s. [218.39](#); however, the committee may serve other audit oversight purposes as determined by the entity's governing body. The public may not be excluded from the proceedings under this section.

(3) The auditor selection committee shall:

(a) Establish factors to use for the evaluation of audit services to be provided by a certified public accounting firm duly licensed under chapter 473 and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy. Such factors shall include, but are not limited to, ability of personnel, experience, ability to furnish the required services, and such other factors as may be determined by the committee to be applicable to its particular requirements.

(b) Publicly announce requests for proposals. Public announcements must include, at a minimum, a brief description of the audit and indicate how interested firms can apply for consideration.

(c) Provide interested firms with a request for proposal. The request for proposal shall include information on how proposals are to be evaluated and such other information the committee determines is necessary for the firm to prepare a proposal.

(d) Evaluate proposals provided by qualified firms. If compensation is one of the factors established pursuant to paragraph (a), it shall not be the sole or predominant factor used to evaluate proposals.

(e) Rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to paragraph (a). If

fewer than three firms respond to the request for proposal, the committee shall recommend such firms as it deems to be the most highly qualified.

(4) The governing body shall inquire of qualified firms as to the basis of compensation, select one of the firms recommended by the auditor selection committee, and negotiate a contract, using one of the following methods:

(a) If compensation is not one of the factors established pursuant to paragraph (3)(a) and not used to evaluate firms pursuant to paragraph (3)(e), the governing body shall negotiate a contract with the firm ranked first. If the governing body is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the governing body shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The governing body, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time.

(b) If compensation is one of the factors established pursuant to paragraph (3)(a) and used in the evaluation of proposals pursuant to paragraph (3)(d), the governing body shall select the highest-ranked qualified firm or must document in its public records the reason for not selecting the highest-ranked qualified firm.

(c) The governing body may select a firm recommended by the audit committee and negotiate a contract with one of the recommended firms using an appropriate alternative negotiation method for which compensation is not the sole or predominant factor used to select the firm.

(d) In negotiations with firms under this section, the governing body may allow a designee to conduct negotiations on its behalf.

(5) The method used by the governing body to select a firm recommended by the audit committee and negotiate a contract with such firm must ensure that the agreed-upon compensation is reasonable to satisfy the requirements of s. 218.39 and the needs of the governing body.

(6) If the governing body is unable to negotiate a satisfactory contract with any of the recommended firms, the committee shall recommend additional firms, and negotiations shall continue in accordance with this section until an agreement is reached.

(7) Every procurement of audit services shall be evidenced by a written contract embodying all provisions and conditions of the procurement of such services. For purposes of this section, an engagement letter signed and executed by both parties shall constitute a written contract. The written contract shall, at a minimum, include the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services.

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract.

(c) A provision specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed.

(8) Written contracts entered into pursuant to subsection (7) may be renewed. Such renewals may be done without the use of the auditor selection procedures provided in this section. Renewal of a contract shall be in writing.

(9) If the entity fails to select the auditor in accordance with the requirements of subsections (3)-(6), the entity must again perform the auditor selection process in accordance with this section to select an auditor to conduct audits for subsequent fiscal years.

History.—s. 65, ch. 2001-266; s. 1, ch. 2005-32; s. 15, ch. 2019-15.

Section 2 – Annual Financial Audit

Overview

Most local governments are required to have an independent audit of their financial statements performed in accordance with appropriate professional auditing standards. Properly performed audits play a vital role in the public sector by helping to preserve the integrity of public finance functions and by maintaining citizens' confidence in their elected leaders.

Requirements

Section [218.39](#), F.S., requires that local governments that meet specific criteria outlined in the chapter shall have an annual financial audit of its accounts and records completed within nine (9) months after the end of its fiscal year. The annual audited financial report could also be required to include a "single audit" in accordance with OMB *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) or s. [215.97](#), F.S., and Chapter [10.550](#), Rules of the Auditor General. The audit shall be performed by an independent certified public accountant in accordance with s. [218.39](#), F.S., and Chapter [10.550](#), Rules of the Auditor General. At the conclusion of the audit, the auditor shall discuss all comments that will be included in the audit report with management, each member of the governing body, and each member of an audit committee charged with governance.

The local government's response to the audit findings, including corrective action to be taken, must be filed with the local government's governing body within thirty (30) days after delivery of the audit findings. In addition, the audit findings and responses must be incorporated in the audit report package and submitted to the Auditor General within forty-five (45) days after the delivery of the audit report to the local government's governing body, but no later than nine (9) months after the end of the fiscal year.

Chapter 10.550, Rules of the Auditor General requires the management letter to include the following:

- (1) For counties as a whole, municipalities, and special districts:
 - (a) A statement describing the results of the auditor's determination as to whether or not the local governmental entity met one or more of the conditions described in s. [218.503\(1\)](#), F.S., and identification of the specific condition(s) met.
 - (b) A statement describing the results of the auditor's determination as to whether or not the financial report filed with the DFS pursuant to s. [218.32\(1\)\(a\)](#), F.S., is in agreement with the annual financial audit report for the current audit period and, if not, explanations of any significant differences.

- (c) The following information regarding the auditor's application of financial condition assessment procedures:
 - 1. A statement that the auditor applied financial condition assessment procedures.
 - 2. If a deteriorating financial condition(s) is noted, a statement that the local governmental entity's financial condition is deteriorating and a description of conditions causing the auditor to make this conclusion. If the auditor reported that the local governmental entity met one or more of the conditions specified in s. [218.503\(1\)](#), F.S. (see a., above), this statement shall indicate whether such condition(s) resulted from a deteriorating financial condition(s).
 - (d) If appropriate, a statement indicating the failure of a special district that is a component unit of a county, municipality or special district, to provide the financial information necessary to a proper reporting of the component unit within the audited financial statements of the county, municipality, or special district. (s. [218.39\(3\)\(b\)](#), F.S.)
- (2) For water management districts:
- (a) A statement describing the results of the auditor's determination as to whether or not the district provided monthly financial statements to its governing board and posted the monthly financial statements on its web site. (See ss. [215.985\(11\)](#) and [373.536\(4\)\(e\)](#), F.S.)
 - (b) A statement describing the results of the auditor's determination as to whether or not the district provided a link on its Web site to the DFS' web site to allow viewing of the district's annual financial report. (See s. [218.32\(1\)\(g\)](#), F.S.)
 - (c) A statement describing the results of the auditor's determination as to whether or not the district posted its tentative and final budgets on its Web site. (See ss. [373.536\(5\)\(d\)](#) and [\(6\)\(d\)](#), F.S.)

Additionally, Chapter 10.550, Rules of the Auditor General, requires the scope of the financial audit to include an examination pursuant to *AICPA Professional Standards*, AT Section 601, promulgated by the American Institute of Certified Public Accountants, to determine the following, as applicable:

- (1) For all local governmental entities, a determination of the entity's compliance with the requirements of s. [218.415](#), F.S.
- (2) For counties that received E911 funds, a determination that all E911 fee revenues, interest, and E911 grant funding were used for payment of authorized expenditures, as specified in s. [365.172\(10\)](#), F.S., and as specified in the E911 Board grant and special disbursement programs (see s. [365.173\(2\)\(d\)](#), F.S.).

- (3) For clerks of the courts, a determination of the clerk's compliance with the requirements of ss. [28.35](#) and [28.36](#), F.S.
- (4) For clerks of the courts, a determination of the clerk's compliance with s. [61.181](#), F.S.
- (5) For local governmental entities that received or expended funds related to the Deepwater Horizon oil spill, that are not Federal awards audited as major programs or State financial assistance audited as major projects: a determination of the entity's compliance with Federal and State laws, rules, regulations, contracts, or grant agreements related to the receipt and expenditure of the funds (see s. [288.8018\(1\)](#), F.S.).

Finally, the scope of the financial audit shall include a report that includes an opinion (or disclaimer of opinion) as to whether the schedule of receipts and expenditures related to the Deepwater Horizon oil spill funds is presented fairly in all material respects in relation to the financial statements taken as a whole. The report shall be prepared in accordance with *AICPA Professional Standards*, AU-C Section 725, promulgated by the American Institute of Certified Public Accountants.

Auditor Selection Process

Section [218.391](#), F.S., requires specific procedures to be followed by local governments with respect to selecting an auditor to conduct the annual financial audit required by s. [218.39](#), F.S. The local government must establish an audit committee to assist in the selection process.

While the composition of the audit committee is not specifically noted in the statute, the GFOA, in its best practices, has recommended the following:

- No members should have financial management responsibilities within the local governmental entity.
- All members should possess or obtain a basic understanding of governmental financial reporting and auditing.
- The committee should have access to the services of at least one financial expert, either a committee member or an outside party engaged by the committee for this purpose.
- The actual audit committee membership should be comprised of the local government's governing body or a subset of the governing board.
- The minimum membership of the committee should be no fewer than three (3) members.

Considering that smaller local governments may experience difficulty in obtaining individuals with the necessary experience in governmental financial reporting and auditing, there is a small government consideration noted in the Auditor Selection Guidelines, accessible on the Auditor General's web site. The consideration is that the smaller government might consider consulting with larger governments in the area to identify employees or consultants of those governments who might be willing to work with their audit committee. Also, should the small government opt to not establish an audit committee composed of the governing body; the small government could seek to use the audit committee of the larger entity as their audit committee.

The audit committee shall perform the following functions:

- Establish factors to be used in the evaluation of audit services.
- Publicly announce requests for proposals.
- Provide interested firms with requests for proposals.
- Evaluate proposals provided by qualified firms.
- Rank and recommend in order of preference to the local government's governing body no fewer than three (3) firms deemed to be the most highly qualified to perform the required services.

If compensation is not one of the factors used by the audit committee in the evaluation of proposals, the governing body shall negotiate a contract with the firm ranked first. If the governing body is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the governing body shall undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other firms shall be undertaken in the same manner. If compensation is one of the factors used by the audit committee in the evaluation of proposals, the governing body shall select the highest-ranked qualified firm or must document the reasons for not selecting the highest-ranked qualified firm.

References

Section [215.97](#), F.S.; Florida Single Audit Act

Section [218.39](#), F.S.; Annual Financial Audit Reports

Section [218.391](#), F.S.; Auditor Selection Procedures

Section [218.503](#), F.S.; Determination of Financial Emergency

Chapter 10.550, Rules of the Auditor General; Local Government Entity Audits – http://www.myflorida.com/audgen/pages/rules_localgovt.htm

Auditor Selection Guidelines –

http://www.myflorida.com/audgen/pages/pdf_files/auditor%20selection%20guidelines.pdf

OMB Circulars – https://www.whitehouse.gov/omb/grants_circulars/

Government Finance Officers Association – <http://www.gfoa.org/>



**CITY COUNCIL AGENDA MEMORANDUM
JUNE 22, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council
FROM: Kurt Swartzlander, Finance Director
PREPARED BY: Kurt Swartzlander, Finance Director
SUBJECT: RFP Audit Services

SYNOPSIS:

The City, with approval of the auditor selection committee approval, is required to issue an RFP for it's annual audit requirements. Attached is a staff prepared RFP for the purpose of issuing the RFP for publication.

FISCAL IMPACT STATEMENT:

Dependent upon council action at future selection of the firm to conduct the audit.

BACKGROUND:

N/A

LEGAL REVIEW:

RECOMMENDATION:

Approve or modify the attached RFP for publication

SUGGESTED MOTION:

Motion to approve or modify the attached RFP for publication.

ATTACHMENT: 1. RFP 2021-02 Independent Audit Service DBS Agenda Final pdf

CITY OF DAYTONA BEACH SHORES

**2990 South Atlantic Ave
Daytona Beach Shores, FL 32118
Telephone (386)763-5353
Fax (386)763-5320**



REQUEST FOR PROPOSAL FOR INDEPENDENT AUDIT SERVICES

RFP NO. 2021-02

RFP TITLE:	ANNUAL INDEPENDENT AUDIT SERVICES
RFP NUMBER:	2021-02
RP DUE DATE & TIME:	July 30, 2021 2:00pm
RFP OPENING LOCATION:	CITY OF DAYTONA BEACH SHORES CITY HALL THIRD FLOOR LOBBY, 2990 SOUTH ATLANTIC AVE, DAYTONA BEACH SHORES, FL 32118
PRE-PROPOSAL MEETING DATE & TIME:	NONE

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REQUEST FOR PROPOSALS

PROPOSER ACKNOWLEDGEMENT FORM

THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR BID

RFP TITLE:	ANNUAL INDEPENDENT AUDIT SERVICES
RFP NUMBER:	2021-02
RP DUE DATE & TIME:	JULY 30, 2021 2:00pm
RFP OPENING LOCATION:	CITY OF DAYTONA BEACH SHORES CITY HALL THIRD FLOOR LOBBY, 2990 SOUTH ATLANTIC AVE, DAYTONA BEACH SHORES, FL 32118
PRE-PROPOSAL MEETING DATE & TIME:	NONE

Proposals Received After The Above Date And Time Will Not Be Accepted.

PROPOSER'S NAME: _____

PROPOSER'S MAILING ADDRESS: _____

CITY, STATE, ZIP: _____

FEIN: _____ PHONE NUMBER: _____

FAX NUMBER: _____

If returning as a "No Proposal", please state reason (s): _____

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Proposal for the same materials, supplies, or equipment, and is in all respects fair and made without collusion or fraud. I agree to abide by all conditions of the Proposal and certify that I am authorized to sign this Proposal for the Proposer. In submitting a Proposal to the City of Daytona Beach Shores, the Proposer offers and agrees that if the Proposal is accepted, the Proposer will convey, assign or transfer to the City of Daytona Beach Shores all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Antitrust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the City of Daytona Beach Shores. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the Proposer.

AUTHORIZED SIGNATURE

NAME (TYPED)

TITLE

DATE

**CITY OF DAYTONA BEACH SHORES
2990 SOUTH ATLANTIC AVENUE
DAYTONA BEACH SHORES, FLORIDA 32118**

SUBJECT:	Independent Audit Services
ISSUE DATE:	June 23, 2021
MAIL PROPOSALS TO:	Cheri Schwab, City Clerk City of Daytona Beach Shores 2990 South Atlantic Ave. Daytona Beach Shores, FL 32118
DELIVER PROPOSALS TO:	Office of the City Clerk City of Daytona Beach Shores 2990 South Atlantic Ave. Daytona Beach Shores, FL 32118
PROPOSALS MUST BE RECEIVED NO LATER THAN:	July 30, 2021 2:00 PM Proposals may not be withdrawn for sixty (60) days after such time and date

**CITY OF DAYTONA BEACH SHORES, FLORIDA
INDEPENDENT AUDIT SERVICES
RFP NO. 2021-02**

A. INSTRUCTIONS TO PROPOSERS AND GENERAL PROVISIONS

In accordance with Section 11.45, Florida Statutes, the City Council of Daytona Beach Shores, Florida is requesting proposals from qualified firms of Certified Public Accountants to conduct an audit of the general-purpose financial statements of the City of Daytona Beach Shores, Florida for the fiscal years ending September 30, 2021, 2022, 2023, 2024 and 2025. The audit agreement is subject to annual approval by the City with grounds for termination including poor performance, not adhering to time schedules and excessive fee increases.

Sealed Proposals

To be considered, (1) original hard copy, seven (7) copies and one (1) pdf on thumb drive or CD of a proposal should be submitted in a sealed package clearly identified as “**SEALED PROPOSAL – INDEPENDENT AUDIT SERVICES,**” and mailed or hand delivered to:

Cheri Schwab
City Clerk
City of Daytona Beach Shores
2990 South Atlantic Ave.
Daytona Beach Shores, FL 32118

The **sealed proposal package** must include a **SEALED SUBMISSION OF THE FEE PROPOSAL FORM** in an envelope identifying the following: **FEE PROPOSAL FORM, RFP NO. 2021-02 FOR INDEPENDENT AUDIT SERVICES, NAME OF PROPOSING FIRM AND CONTACT PERSON.**

All sealed proposals must be in the hands of the City Clerk by 2:00 pm on July 30, 2021.

Proposals submitted by telephone, email or fax shall not be accepted.

Responses

All responses must be presented in the same order as specified in this bid. Supporting material may be provided; however, the City’s decision will primarily be based upon a comparison of the information specifically requested. The City reserves the right to accept or reject any and/or all proposals and to waive any minor

irregularities and technicalities. There is no obligation on the part of the City to award the contract to the lowest responsible Proposer submitting a responsible proposal with a resulting negotiated agreement that is most advantageous and in the best interest of the City. The City shall be the sole judge of the proposal and the resulting negotiated agreement that is in its best interest and its decision shall be final.

All applicable laws and regulations of the State of Florida and ordinances and regulations of the City of Daytona Beach Shores will apply to any resulting agreement.

Proposals shall clearly indicate on the Proposal Form (Appendix D) the legal name, address, and telephone number of the Proposer (company, firm, partnership or individual). Proposals shall be signed above the typed or printed name and title of the signer. The signer shall have the authority to bind the Proposer to the submitted proposal.

All expenses for making proposals to the City are to be borne by the Proposer.

Inquiries

Direct questions related to this RFP to Kurt Swartzlander, Finance Director and submit such questions in writing to kswartzlander@cityofdbs.org. Include the page and paragraph number for each question in order to ensure questions asked are responded to correctly.

All questions must be submitted to the above by July 16, 2021 at 2:00pm. Responses to all questions shall be issued within five days of the above date to all prospective bidders through the city's electronic bidding site.

Contact

All prospective Bidders are hereby instructed not to contact any member of the City of Daytona Beach Shores City Council, Auditor Selection Committee, City Manager or City employees other than the noted contact person regarding this bid/proposal or their bid at any time prior to the posting on the website of the final evaluation and recommended ranking by the Auditor Selection Committee for this engagement. Any such contact shall be cause for rejection of the bid/proposal.

Signature Requirements

Proposals must be signed by a duly authorized official(s) of the proposing firm. Consortiums, joint ventures, or teams submitting proposals, although permitted and encouraged, will not be considered responsive unless it is established that all

contractual responsibility rest solely with one firm or legal entity which shall not be a subsidiary or affiliate with limited resources. Each proposal shall indicate the entity responsible for execution on behalf of the proposal team.

Selection Steps and Calendar

June 23, 2021	Request for Proposal Release Date
July 30, 2021	Request for Proposal Response Deadline, 2:00 PM
July 30, 2021	Request for Proposal Opening, 2:00 PM, City Council Chambers
August 10, 2021	Auditor Selection Committee Proposal Ranking
August 24, 2021	Oral presentations by three (3) top-ranked firms as deemed necessary by the Audit Selection Committee
August 24, 2021	City Council selects one of top ranked firms recommended by the Audit Selection Committee

Scope of Work

1. The firm agrees to conduct a financial and compliance audit of the City's financial statements for the fiscal years ending September 30, 2021, September 30, 2022, September 30, 2023, September 30, 2024 and September 30, 2025, with two (2), three (3) year options for renewal.

2. Financial Audit

The scope of the financial and compliance audit shall be in accordance with *Government Auditing Standards* applicable in the State of Florida to audits of local government pursuant to Sections 218.39 and 215.97, Florida Statutes, and all other guidelines and requirements promulgated by the Office of the Audit General.

- a. A preparation and/or examination of financial statements to express an opinion on the fairness of presentation of financial position, results of operations, and changes in financial position in conformity with generally accepted accounting principles and requirements of the State of Florida and other applicable laws, rules and guidelines.

- b. An examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements.
- c. An examination of any additional activities necessary to establish compliance with the term “financial audit” as defined and used in *Government Auditing Standards* (2018 Revision) and any amendments thereto.
- d. An examination of any additional activities necessary to establish compliance with the Federal Single Audit Act; United States Office of Management and Budget (OMB) Circular No. A-133; other applicable Federal law; and the Florida Single Audit Act.
- e. The use of financial condition assessment procedures to assist the auditor in the detection of deteriorating financial conditions pursuant to Section 218.39(5), Florida Statutes. The auditor may use financial condition assessment procedures developed by the Auditor General, which are available on the Auditor General’s website. The financial condition assessment shall be done as of the fiscal year end; however, the auditor shall give consideration to subsequent events, through the date of the audit report that could significantly impact the local governmental entity’s financial condition.

3. **Single Audit**

If applicable, a financial and compliance audit, “single audit”, of Federal and/or State grants shall be performed, as defined in the *Government Auditing Standards*, the provisions of Single Audit Act and the Office of Management and Budget’s Compliance Supplement for Single Audits of State and Local Governments, Circular A-133, *Audits of State, Local Governments, and Non-Profit Organizations*, and the State of Florida, *Rules of the Auditor General*.

4. **Review of Internal Controls**

An evaluation is to be made of the system of internal control to assess the extent it can be relied upon to ensure accurate information, to ensure compliance with laws and regulations and to provide for efficient and effective operations. The study of internal control should include:

- a. Review of the System, which is primarily the process of obtaining information about the organization and the procedures prescribed and are intended to serve as the basis for tests of compliance and for evaluation of the system.

- b. Tests of Compliance, which is made to provide reasonable assurance that the accounting control procedures are being applied as prescribed.

5. **Reports**

In addition to the Independent Auditor's Report, which includes at a minimum:

- (i) A statement as to whether the financial statements are presented in accordance with generally accepted accounting principles.
- (ii) An expression of opinion regarding the financial statements taken as a whole, or an assertion to the effect that an opinion cannot be expressed including the reasons therefore; and
- (iii) A statement that the audit was conducted in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards.

the firm agrees to prepare the following reports during the term of the contract:

- a. Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Audit Standards*.
- b. Reports on compliance with specific requirements applicable to Federal and/or State financial assistance.
- c. Independent Accountants' Report on an examination conducted in accordance with *AICPA Professional Standards*, AT-C Section 315.
- d. All reports and forms to Federal agencies, such as the Federal Audit Clearinghouse.
- e. The Auditor shall prepare draft financial statements and notes and provide those, along with all adjusting entries and supporting schedules, to the City. The Auditor will be responsible for the review of the transmittal letter, Management Discussion & Analysis, and statistical section, and the editing, preparation, printing (20 copies) and distribution of the final Annual Comprehensive Financial Report, including providing a PDF file of the final ACFR to the City.

- f. Report, immediately in writing of all irregularities and illegal acts or indications of illegal acts of which they become aware to management and/or the Auditor Selection Committee, as appropriate.

6. **Management Letter**

Independent Auditor's Management letter to include a review of internal controls required by Florida Statutes 218.39 and 215.97 and Rules of the Auditor General, Chapter 10.550 which shall identify any management weaknesses observed, assess their effect on financial management and propose steps to correct or eliminate those weaknesses.

7. **Technical Advice**

The auditor shall provide technical advice as requested for accounting that may arise during the contract period.

8. **Additional Services**

If, during the contractual period covered by the agreement, additional services such as operational audits, preparation of bond issues, or other services are needed, the accounting firm may, at the option of the City, be engaged to perform these services at the rates established in the agreement.

9. **Additional Data**

Additional information that the auditing firm deems appropriate to assist in evaluating the proposal should be submitted.

10. **Reports to City Manager, Finance Director and Auditor Selection Committee**

The auditor shall report and disclose annually the following to the City Manager, Finance Director and Auditor Selection Committee as appropriate:

- (i) The auditor's responsibility under generally accepted auditing standards, and assurances that the independent auditor is currently licensed, and that the members of the audit team have the minimum required Continuing Professional Education credits required for performing audits under Government Auditing Standards.
- (ii) Significant new or changes in accounting policies and implementation.
- (iii) Significant management judgements and accounting estimates.

- (iv) Significant audit adjustments.
- (v) Other information in documents containing audited financial statements.
- (vi) Disagreements with management.
- (vii) Consultations with other accountants.
- (viii) Major issues discussed with management prior to retention.
- (ix) Difficulties encountered in performing the audit.

B. PROPOSAL REQUIREMENTS

Eligibility

To be eligible to qualify as an independent external auditor and respond to this RFP, the Proposer must demonstrate to the satisfaction of the City that it or the principals assigned to the project has successfully provided services, similar in scope and complexity to a municipality or quasi-governmental organization.

Proposers must meet the following minimum requirements must be met:

1. The firm must have been established as a legal entity in the State of Florida and have performed continuous CPA services for a minimum of five (5) years providing the proposed services to a municipality or other public entity.
2. The firm must submit an affirmation that the proposer meets the *Government Auditing Standards* independence requirements as published by the U.S. General Accounting Office.
3. The *Government Auditing Standards* require the Certified Public Accountant in charge of the audit to have completed, within the immediate preceding two (2) years, at least twenty-four (24) hours of continuing professional education that directly relate to government auditing and that will enhance the professional proficiency of the auditor to perform audits or attestation engagements.
4. The manager and senior auditor must have experience auditing one or more similar governments where all applicable Governmental Accounting Standards Board Statements have been implemented.
5. The manager and senior auditor must have experience performing a Single Audit in accordance with generally accepted auditing standards, Government Auditing Standards, 2 CFR 200 Part F, Cost Principles and Audit Requirements for Federal Awards, Audits of State and Local Governments and the Rules of the Auditor General for the State of Florida.

Information to be included in the Proposal

To assure consistency, proposals must conform to the following format:

1. Title Page

Show the proposal subject, the legal name of the Proposer's firm, local address, telephone number, name of the contact person and date.

2. Table of Contents

Include a clear identification of the material by section and by page number.

3. Letter of Transmittal

Limit to not more than two (2) pages.

- a. Briefly state the Proposer's understanding of the work to be done and make a positive commitment to perform the work within the specified time period.
- b. Give the names of the persons who will be authorized to make representations for the Proposer, their title, addresses, and telephone numbers.
- c. Give the firm's federal taxpayer identification number.

4. Profile of the Proposer

- a. State whether the firm is local, regional, or national.
- b. Give the location of the office from which the work is to be done and the number of partners, managers, supervisor seniors, and other professional staff employed at that office.
- c. Describe the range of activities performed by the local office such as audit, accounting, tax service, or management services.
- d. Describe the local office's management and/or computer assistance capability including the numbers and classifications of personnel skilled in on-line computer auditing.

- e. Describe your firm's current partners, managers, supervisors, or staff experience in preparing governmental financial statements in conformance with the Codification of Governmental Accounting and Financial Reporting Standards Board Pronouncements and Interpretations and in providing assistance to clients in obtaining and/or maintaining the *Certificate of Achievement for Excellence in Financial Reporting*. Include the names of partners and staff that have recently prepared and successfully received the Certificate on a first- time submission.
- f. For the firm's office that will be assigned responsibility for the audit, list the most significant engagements (maximum of 5) performed in the last five (5) years that are similar to the engagement described in this Request for Proposal. These engagements should be ranked on the basis of total staff hours. Indicate the scope of work, date, engagement partners, total hours and the name and telephone number of the principal contact. List any engagements with other governmental entities where the firm's office that will be responsible for the audit was dismissed; its contract terminated or where the governmental entity refused to exercise the right to renew the firm's contract. Indicate the date and the name and telephone number of the principal contact.

5. Summary of the Proposer's Qualifications (In Addition to Minimum Qualifications)

- a. Identify the current partners, managers, and supervisors who will work on the audit including staff from other than the local office, if necessary, for this audit. An organization chart is required. Resumes for each managerial and supervisory person to be assigned to the audit should be submitted and include the following information:
 - 1. Formal education.
 - 2. Supplemental education relative to governmental accounting and auditing.
 - 3. Experience in public accounting in general.
 - 4. Experience in private business or government.
 - 5. Experience in auditing governmental units.

6. Experience in computerized systems in conjunction with (3), (4) and (5) above.
 7. Membership in various National and State governmental accounting boards, committees, or associations (past and present).
 8. Professional recognition such as certified public accounting licenses, awards, etc.
- b. Describe your firm's current partners, managers, and supervisors local governmental audit experience within the State of Florida and give the names and telephone numbers of client officials. Other experience with non-similar governmental units may be included only as ancillary information. Reference Information (Appendix E).
 - c. Describe the firm's current partners, managers, and supervisors experience in preparing the single audit for audits of federally assisted programs.
 - d. Describe your firm's current partners, managers, and supervisor's participation and experience in peer reviews, specifically the inclusion of governmental audits in the review at both the local and national level.
 - e. Describe your firm's current partners, managers, and supervisors who had primary responsibility and interaction with municipal officials regarding the municipalities' receipt of the *Certificate of Achievement for Excellence in Financial Reporting* and the associated municipalities.
 - f. Clearly state the government expertise of the firm's staff at the local office level that will be assigned to this project.
 - g. Submit a copy of the firm's most recent external quality control review, letters of comments, and a statement as to whether the quality control review included a review of specific government engagements.

6. Audit Approach

- a. Describe the overall approach the firm will take in this audit engagement including the extent to which statistical sampling techniques will be utilized.

- b. Describe the approach that will be used to review the adequacy of the City's system of internal controls.
- c. Describe the approach that will be used in testing for legal and regulatory compliance.
- d. Describe the method and work plan for auditing pending GASB pronouncements in the initial contract year and/or subsequent years.
- e. Describe the assistance that will be provided in meeting the requirements for the *Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting*.

7. **Fee Proposal**

Total All-Inclusive Maximum Annual Fee

The proposal shall contain all pricing information relative to performing the independent audit engagement as described in this Request for Proposal (RFP). The proposal should include a schedule of professional fees and expenses broken down by the services and disclosed on the fee proposal (Appendix C) for each of the five (5) years with indication of the number of staff hours, by classification and rate for each of the services. Each schedule should include a total all-inclusive maximum annual fee for each year's engagement.

The proposal should also include a schedule of the single audit fee should one be required. Certain years may not require a single audit; therefore, the fee proposal must reflect fees both with and without a single audit for each of the five (5) years. The fee proposal shall also include an hourly rate for additional services.

All estimated out-of-pocket expenses should be included in the total all-inclusive maximum annual fee submitted. The City will not reimburse for out-of-pocket expenses not included in the total contract price. A statement should be included indicating the firm has included all such costs for travel, lodging and subsistence in the total maximum price.

Maximum annual fee shall also include all required audit services resulting from all known GASB pronouncements as of the date of the proposal.

Annual Fees

The fee proposed for each year of the engagement should be separately stated for each fiscal year end. The initial letter of engagement shall specify the contract period, including renewals, and conditions under which the contract may be terminated or renewed.

A SEALED SUBMISSION OF THE FEE PROPOSAL FORM shall be included in the sealed proposal package. The fee proposal form shall be in a separately sealed envelope and should reflect the following on the exterior of the envelope: **FEE PROPOSAL FORM, RFP NO. 2021-__ FOR INDEPENDENT AUDIT SERVICES, NAME OF PROPOSING FIRM AND CONTACT PERSON.**

8. Profile of the Proposer - Additional Requirements

Insurance Requirements (Appendix F)

Public Entity Crime Statement (Appendix G)

Drug Free Workplace Form (Appendix H)

C. EVALUATION CRITERIA & SELECTION PROCESS

Proposals will be evaluated by the Audit Selection Committee of the City and the proposer will be selected by the City Council based on, but not limited to, the following criteria in order of importance:

1. Qualifications and Experience
 - a. Quality and experience of government engagements of comparable size and complexity.
 - b. Quality and experience of the firm's professional auditing personnel to be assigned to the engagement and the quality of the firm's management support personnel to be available for technical consultation.
 - c. Quality and experience of the firm's professional auditing personnel assigned to perform Single Audit.
 - d. Proximity of the assigned office.
2. Audit Approach
 - a. Adequacy of proposed staffing plan for the audit.
 - b. Adequacy of general overall audit plan.
 - c. Adequacy of audit plan for the Single Audit.
 - d. Completeness of the response to the Request for Proposal.
 - e. Recent, current and projected workload of proposing auditors.

3. Oral presentation of proposer – No more than a 10-minute presentation to be followed by questions posed by the Audit Selection Committee.
4. Fees proposed.

The selection process shall be as follows:

1. The Auditor Selection Committee of the City shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services. This determination shall be made based on the evaluation criteria set forth above. If fewer than three firms respond to the request for proposal, the committee shall recommend such firms as it deems to be the most highly qualified. Section 218.391 F.S.
2. The City Council shall then, after making inquiry as to the basis of compensation, select one of the firms recommended by the Auditor Selection Committee of the City.
3. The City Council, or its designee, shall negotiate a contract with the highest-ranked qualified firm unless it documents in its public records the reason for not selecting the highest-ranked qualified firm.
4. Alternatively, the City Council may select a firm recommended by the Audit Selection Committee of the City and negotiate a contract with said firm using an appropriate alternative negotiation method for which compensation is not the sole or predominate factor used to select the firm.

D. BACKGROUND

The City of Daytona Beach Shores invites Independent Certified Public Accountants, who are licensed to practice in the State of Florida, to submit proposals for the performance of an examination of its financial statements for the period beginning October 1, 2020 and ending September 30, 2021 with the expectation that the annual audit contract will be awarded for four (4) years thereafter, with two (2), three (3) year options for renewal subject to the mutual satisfaction of both parties. The purpose of the examination is to express an opinion on the fairness with which the general purpose financial statements present the City's financial position, results of operations and cash flows of its proprietary fund types in conformity with generally accepted governmental accounting principles and to determine whether operations were conducted in accordance with legal and regulatory requirements.

General Information

1. The auditor's principal contact with the City of Daytona Beach Shores will be Kurt Swartzlander, Assistant City Manager/Finance Director, or his designated representative, who will coordinate the assistance to be provided by the City of Daytona Beach Shores to the auditor.

An organizational chart (Appendix A) and a list of key personnel with the location of their principal offices (Appendix B) are attached.

2. The City of Daytona Beach Shores is one of sixteen municipalities located in Volusia County on Florida's east coast. Daytona Beach Shores is a City Council/City Manager form of municipal government with a population of approximately 4,778. The City employs approximately 82 full time equivalents with a General Fund* annual budget of \$22.4 million, an Economic Development Fund budget of \$198K, and a Sewer Fund budget of 3.451 million.

*The number of individual and sub-funds may be increased or decreased depending upon the City's requirements.

3. The Annual Comprehensive Financial Report for the fiscal year ended September 30, 2020 and the Fiscal Year 2020/2021 Operating and Capital Budget are available for review on the City's website, www.dbshores.org.
4. The City's accounting system is substantially fully automated. All personnel in the Finance Division, which includes the functions of accounting, financial reporting, budgeting, and utility billing/customer service, have dedicated personal computers. Access to the City's wifi will be made available to the auditors, through the Information Technology Department. The general ledger accounting, payroll, fixed assets, cash receipts and utility billing systems are fully automated. The current ERP system is Munis by Tyler Technologies. The core functions of the system include: financial, accounts payable, HR, payroll, revenue, and utility billing. Tyler Cashiering is used for cash collections.
5. The City of Daytona Beach Shores participates in one single employer defined contribution pension plan and one multi-employer defined benefit pension plan (FRS). The defined contribution plan is closed to new members and currently has two members.
6. The City has no internal audit function. Finance Division personnel include the Finance Director, Assistant Finance Director, Accounting Clerk III, and other accounting and utilities billing personnel who will be available to

assist with the preparation of account analyses, schedules, system reports, etc.

7. Operating and capital budgets for governmental and proprietary fund types are recorded in the automated accounting system. Additionally, budget amendments and transfers are documented and recorded in the system.
8. The City has an Auditor Selection Committee, which consists of the Mayor, Vice-Mayor, and three (3) Councilmembers.

E. TIME REQUIREMENTS

1. Date Audit May Commence

The City of Daytona Beach Shores will have all necessary Finance management personnel available to meet with the firm's personnel upon execution of the contract.

2. Schedule for the FY 2021 Audit

Each of the following shall be completed by the auditor no later than the dates specified unless specific arrangements have been made between the audit firm and City Management:

- a. Interim Work shall be completed by auditor no later than September 24, 2021 or as agreed upon between the City and the auditor in writing.
- b. Detailed Audit Plan shall be completed no later than September 24, 2021. The Auditor shall work with Finance staff during development and shall include a list of all schedules to be completed by Finance staff prior to the beginning of field work.
- c. Field Work shall be completed no later than December 17, 2021 with the exception of Florida Retirement System audit schedules due annually January 15 or as agreed upon between the City and the auditor in writing.
- d. The Auditor shall prepare all required draft financial statements with accompanying notes and disclosures with the audit reports and recommendations to management no later than February 25, 2022 or as agreed upon between the City and the auditor in writing.

- e. The final auditor reports and management letter to include the Final Annual Comprehensive Financial Report shall be submitted to Finance no later than March 10, 2022. The Final Annual Comprehensive Financial Report shall be distributed by the Auditors no later than March 14, 2022.

For fiscal years ending September 30, 2022, September 30, 2023, September 30, 2024 and September 30, 2025, the schedules will be as agreed upon by mutual written agreement of the City and the auditor.

Notwithstanding the above, throughout the entire term of the agreement, the auditor shall provide all necessary reports so that the City may submit the final Annual Comprehensive Financial Report to the City Council or the Government Finance Officers Association no later than March 31st.

F. GENERAL INFORMATION

1. Working Papers

Work papers are the property of the audit firm and shall be retained for the period of three (3) years and shall be available to inspect and reproduce upon request of the City or its authorized representatives.

2. Staff Assignments

The City reserves the right to approve, reject or request rotation of staff assigned to the City's audit.

3. Audit Planning

An entrance conference shall be held between the City of Daytona Beach Shores' key personnel upon execution of the contract. The purpose of this meeting will be to discuss prior audit problems and the interim work to be performed. This meeting will also be used to establish overall liaison for the audit and to plan for workspace and other needs of the auditor.

4. **Closing of the Books**

The City will close the books and prepare trial balances no later than November 30th of each year. The auditors shall conduct the audit examination so that their fieldwork will be completed by forty-five (45) days from the close of books and preparation of trial balance. The external auditor will submit copies of their adjusting entries to the City at the completion of fieldwork.

5. **Manner of Payment**

Progress payments will be made based on hours of work completed during the course of the engagement in accordance with an agreement reached during contract negotiations. Interim billings shall cover a period of not less than a calendar month. Payment of the final billing will be made after delivery of the final report and presentation to the City Council.

In no event will the City pay more than the all-inclusive annual fee unless otherwise negotiated. Any billing related to other professional services will be billed separately from the audit billings. The Audit billings for the Single Audit should be broken out, if applicable.

G. **ASSISTANCE TO BE PROVIDED TO THE AUDITOR AND REPORT PREPARATION**

1. **Finance Division and Clerical Assistance**

The Finance Division staff, and responsible management personnel will be available during the audit to assist the firm by providing information, documentation and explanations. The preparation of confirmations shall be the responsibility of the City of Daytona Beach Shores.

2. **Electronic Data Processing (EDP) Assistance**

City of Daytona Beach Shores staff will be available to provide systems documentation and explanations.

3. **Work Area and Wifi**

The City will provide the auditor with reasonable workspace, tables and chairs. The auditor will also be provided with reasonable access to a telephone line and wifi.

4. **Report Preparation**

The Auditor shall prepare draft financial statements and notes and provide those along with all adjusting entries and supporting schedules to the City. The City will be responsible for review of the drafts. The Auditor will be responsible for the review of the transmittal letter, MD&A, and statistical section, and the editing, printing (20 copies) and distribution of the Annual Comprehensive Financial Report. The City will provide the front and back covers for the ACFR. The City reserves the right to revise the number of printed copies required.

The Auditor will provide to the City both secure and unsecured final ACFR documents in pdf as well as provide the ACFR word document to city staff upon request.

H. **OTHER CONDITIONS**

1. **Public Entity Crimes**

A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit Proposals on leases or real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

2. **Discrimination**

Pursuant to Section 287.134(2)(a), Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid or proposal on a contract to provide any goods or services to a public entity, may not submit a bid or proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bid or proposal on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

3. **Public Records/Non-Confidentiality of Bids and/or Proposals**

The City of Daytona Beach Shores cannot and does not warrant the confidentiality of any information submitted in response to this solicitation. Florida law provides that municipal records shall at all times be open for personal inspection by any person, Section 119.01 F.S. The Public Records Law. Information and materials received by the City of Daytona Beach Shores in connection with all Proposer's response shall be deemed to be public records subject to public inspection upon award, recommendation for award, or 30 days after bid opening, whichever occurs first. Section 119.071 F.S.

The Contractor expressly agrees that it shall comply with the public records law provided in Florida Statutes, Chapter 119, and specifically to:

- Keep and maintain public records that ordinarily and necessarily would be required by the city in order to perform the contracted service.
- Provide the public access to public records on the same terms and conditions the City would provide the records and at a cost not to exceed the cost provided in Chapter 119, F.S. or otherwise provided by law.
- Ensure all exempt or confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law.
- Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.
- Failure of the Contractor to comply with Public Records Law as provided by Chapter 199 F.S. shall subject the Agreement to termination for cause by the City.

4. **Clarification/Correction of RFP Entry**

The City of Daytona Beach Shores reserves the right to allow for the clarification of questionable entries and for the correction of obvious mistakes.

5. **Interpretation**

Any questions concerning conditions and specifications shall be directed to the Finance Director, Kurt Swartzlander, in writing to kswartzlander@cityofdb.org. Those interpretations, which may affect the eventual outcome of this Submittal, will be furnished in writing to all prospective Submitters. No interpretation shall be considered binding unless provided in writing by the City of Daytona Beach Shores.

6. **Licenses and Permits**

The successful Proposer agrees to secure all necessary licenses and permits and agrees to comply with all Federal, State and Local laws, as well as local ordinances, rules and/or regulations that in any manner that could affect the services to be provided under the Request for Proposals (hereinafter “RFP”) and any subsequent agreement arising out of the RFP. The successful Proposer is responsible for determining and paying any fees that may be necessary to perform this RFP and any subsequent agreement arising out of the RFP.

7. **Modification**

Oral changes to terms presented in this RFP are not permitted. No change to the terms of this RFP shall be made unless the City gives prior written approval. This provision shall be strictly construed and the Proposer hereby acknowledges and understands that it is solely liable for all costs resulting from, and/or satisfactorily correcting, any change to the RFP, or any subsequent agreement arising out of the RFP, not properly ordered in writing by the City.

8. **Drug Free Workplace**

The selected firm must provide the Drug Free Workplace Form in accordance with Florida Statute 287.087, prior to Contract award.

9. **Governing Law and Venue**

This RFP, and any subsequent agreement arising out of the RFP, shall be interpreted under and its performance governed by the laws of the State of Florida. Any state suit or action between City and the Proposer arising out of this RFP, and any subsequent agreement arising out of the RFP, shall be brought in the Seventh Judicial Circuit in and for Volusia County, Florida,

and any federal suit or action shall be brought in the U.S. District Court, Middle District of Florida, Orlando Division.

10. **Attorney's Fees**

In the event it becomes necessary for the City to seek legal means to enforce the terms of this RFP, or any subsequent agreement arising out of the RFP, the Proposer will be liable for all reasonable litigation fees and cost incurred by the City in the prosecution or defense of such action, or in any post-judgment or collection proceedings. This shall include any bankruptcy proceedings filed by or against the Proposer.

11. **Award**

Nothing contained in the proposal documents is intended or does create an entitlement or property interest in the award of contract to the low proposing vendor. The low proposing vendor is not entitled to award of this contract.

The CITY reserves the right, in its sole discretion, as the best interest of the CITY may require, to make awards(s) by individual item, group of items, all or none, or a combination thereof; on a geographical basis and/or with one or more vendors, contractors, consultants or specialists; or to reject any and all Submittals or waive any minor irregularity or technicality in the Submittals received.

The City reserves the right to award the contract to the next most qualified firm if the successful firm fails to execute a contract within tow weeks after the award of the Contract by the City Council.

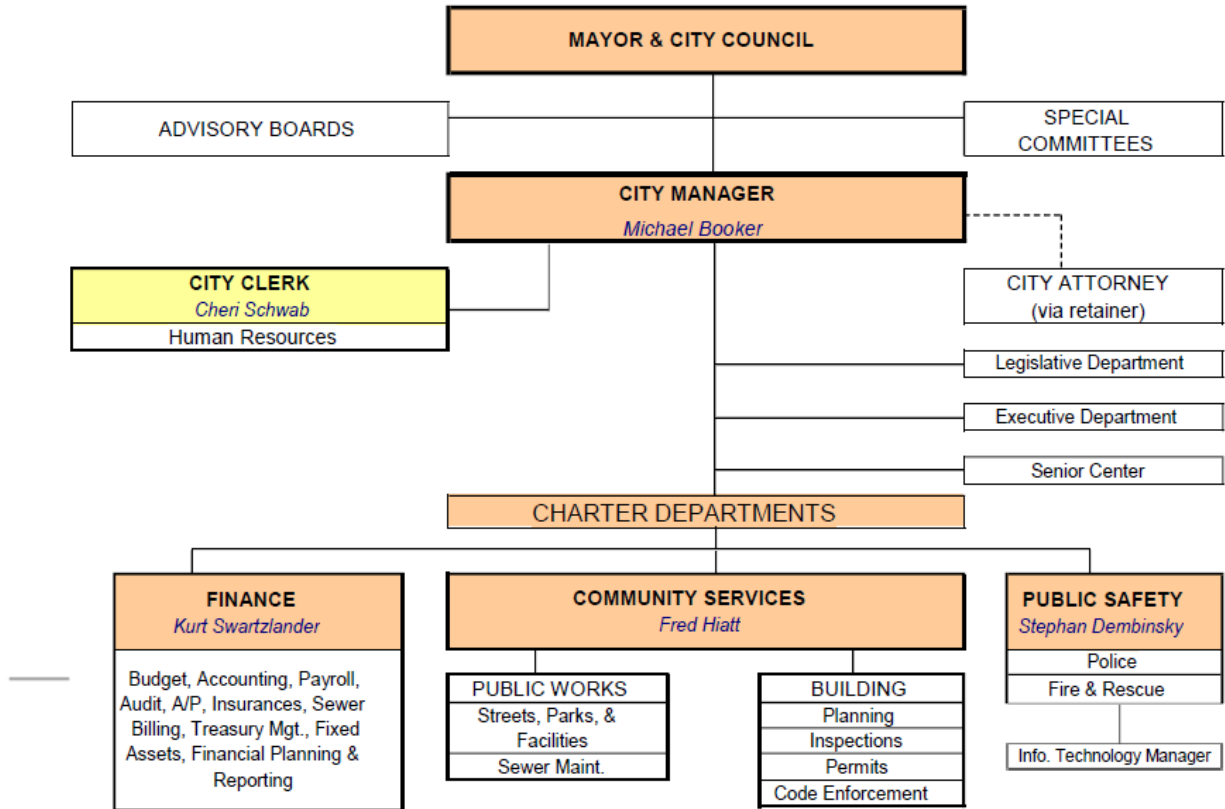
12. **Withdrawal and Termination**

Proposals may not be withdrawn for sixty (60) days after the time and date submitted. Upon award of the RFP, the successful proposer and the City shall be deemed to have entered into an agreement pursuant to the terms and conditions of the RFP and such agreement may only be terminated: (1) by the contractor upon one hundred twenty (120) days' written notice from the contractor to the City; or (2) by the City immediately upon written notice to the contractor, if contractor fails to provide the services required herein in accordance with the terms and conditions stated herein.

APPENDIX A

CITY OF DAYTONA BEACH SHORES ORGANIZATION CHART

(including charter established department heads)



APPENDIX B

CITY OF DAYTONA BEACH SHORES

KEY PERSONNEL FOR INDEPENDENT AUDIT SERVICES RFP NO. 2021-02

Location		City of Daytona Beach Shores 2990 South Atlantic Ave. Daytona Beach Shores, FL 32118
Mayor and Commissioners	Nancy Miller Mel Lindauer Richard Bryan Rick Frizalone Michael Politis	Mayor Vice Mayor Council Member Council Member Council Member
Administration	Michael Booker	City Manager
City Attorney	Becky Vose	Vose Law Firm LLP
Finance Division	Kurt Swartzlander	Finance Director
Clerk's Office	Cheri Schwab	City Clerk

APPENDIX C

CITY OF DAYTONA BEACH SHORES, FLORIDA PROPOSAL FORM FOR INDEPENDENT AUDIT SERVICES RFP NO. 2021-02

The firm of _____ submits the following annual fees:

	<u>2020/2021</u>	<u>2021/2022</u>	<u>2022/2023</u>	<u>2023/2024</u>	<u>2024/2025</u>
Financial Audit without Certificate of Achievement Submission					
1	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Financial Audit with Certificate of Achievement Submission					
2	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
3 Single Audit	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Hourly Rates for Additional Services					
4 _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
5 _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
6 _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
7 _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
8 _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
9 _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

APPENDIX D

**CITY OF DAYTONA BEACH SHORES, FLORIDA
PROPOSAL FORM
FOR
INDEPENDENT AUDIT SERVICES
RFP NO. 2021-02**

Firm Name

Home Office Address

City, State

Telephone Number

Address: Branch office servicing City of Daytona Beach Shores (other than above)

Name, Title & Telephone No. of Contact Representative for City

The undersigned attests to his (her, their) authority to submit this Proposal and to bind the firm herein named to perform as per contract, if the firm is awarded the contract by the City.

Signature

Witness Signature

Typed Name & Title of Above Signer

Witness Signature

APPENDIX E

CITY OF DAYTONA BEACH SHORES, FLORIDA

REFERENCE INFORMATION
FOR
INDEPENDENT AUDIT SERVICES
RFP NO. 2021-02

Organization _____

Contact Person _____

Address _____

City _____ State _____ Zip _____

Phone Number (_____) _____

Project Cost _____ Date Performed _____

~~~~~

Organization \_\_\_\_\_

Contact Person \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone Number (\_\_\_\_\_) \_\_\_\_\_

Project Cost \_\_\_\_\_ Date Performed \_\_\_\_\_

~~~~~

Organization _____

Contact Person _____

Address _____

City _____ State _____ Zip _____

Phone Number (_____) _____

Project Cost _____ Date Performed _____

~~~~~

Organization \_\_\_\_\_

Contact Person \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone Number (\_\_\_\_\_) \_\_\_\_\_

Project Cost \_\_\_\_\_ Date Performed \_\_\_\_\_

~~~~~

Representative Typed Name/Title _____

Representative Signature _____

Firm _____

APPENDIX F

CITY OF DAYTONA BEACH SHORES, FLORIDA

INSURANCE REQUIREMENTS FOR INDEPENDENT AUDIT SERVICES RFP NO. 2021-02

INDEMNIFICATION AND INSURANCE REQUIREMENTS

1. Indemnification

The parties recognize that the Proposer is an independent Contractor. The Proposer agrees to assume liability for and indemnify, hold harmless, and defend City, its officers, employees, agents and attorneys, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, arising out of the execution, performance, nonperformance, or enforcement of this Agreement, whether or not due to or caused by the negligence of the Proposer, its board, officers, employees, agents, and attorneys excluding only the sole negligence of the City, its officers, employees, agents, and attorneys. The Proposer's liability hereunder shall include all attorney's fees and costs incurred by the City in the enforcement of this indemnification provision. This includes claims made by the employees of Proposer against the City and the Proposer hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. Nothing contained herein shall be construed as a waiver of any defense or immunity of the City as to any third-party claims, including but not limited to those based on the doctrine of sovereign immunity or section 768.28, Florida Statutes. The obligations contained in this provision shall survive termination of this Agreement and shall not be limited by the amount of insurance required to obtain or maintained under this Agreement. Subject to the limitations set forth in this provision, Proposer shall assume control of the defense of any claim asserted by a third party against the City and, in connection with such defenses, shall appoint lead counsel, in each case at the Proposer's expense. City shall have the right, at its option, to participate in the defense of any third-party claim, without relieving Proposer of any of its obligations hereunder. If the Proposer assumes control of the defense of any third-party claim in accordance with this Section, the Proposer shall obtain the prior written consent of the City before entering into any settlement of such claim. Notwithstanding anything to the contrary in this provision, the Proposer shall not assume or maintain control of the defense of any third party claim, but shall pay the fees of counsel retained by the City and all expenses including experts' fees, if (i) an adverse determination with respect to the third party claim would, in the good faith judgment of the City, be detrimental in any material respect of the City's reputation; (ii) the third party claim seeks an injunction or equitable relief against the City; or (iii) the Proposer has failed or is failing to prosecute or defend vigorously the third party claim. Each party shall cooperate, and cause its agents to cooperate, in the defense or prosecution of any third party claim and shall furnish or cause to be furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith. Nothing contained herein shall be limited by the Proposer acquiring insurance, as required by this RFP.

2. Insurance

The Proposer will not commence work under a contract until all insurance under this section and such insurance coverage as might be required by the City is obtained.

Such insurance shall be in a form, and from insurance companies, satisfactory to the CITY in limits of not less than ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00), protecting the PROPOSER, to include all officers, employees, agents and assignees of Proposer, against claim of the City for negligence, errors, mistakes or omissions in the performance of the services to be performed and furnished by the PROPOSER.

Notice of Cancellation and/or Restriction

The policy must be endorsed to provide the City of Daytona Beach Shores with sixty (60) days' notice of cancellation, restrictions, or reductions in policy limits, or increase in self-insured retentions, and reflect that the City has been named an additional insured.

Certificates of Insurance and Copies of Policies

Certificates of Insurance evidencing the insurance coverage specified above shall be filed with the City before operations are begun. The required certificates of insurance shall not only name the types of policies provided but shall also refer specifically to this section and the above paragraphs in accordance with which insurance is being furnished and shall state that such insurance is as required by such paragraphs.

If the initial insurance expires prior to the completion of operations and/or services by the Proposer, renewal certificates of insurance and required copies of policies shall be furnished by the Proposer and delivered to the City sixty (60) days prior to the date of their expiration.

Nothing contained herein shall, in any manner, create any liability against the City on behalf of any claim for labor, services, or materials, or of subcontractors, and nothing herein contained shall affect the liability of the Proposer or his sureties to the City or to any workmen or materialmen upon bond given in connection with this Agreement.

APPENDIX G

CITY OF DAYTONA BEACH SHORES, FLORIDA

FOR
INDEPENDENT AUDIT SERVICES
RFP NO. 2021-02

SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THE FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR
OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to _____
(Print name of the public entity)

by _____
(Print individual's name and title)

for _____
(Print name of entity submitting sworn statement)

whose business address is _____

and (if applicable) its Federal Employer Identification Number (FEIN) is _____

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn
statement _____).

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any State or Federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States including, but not limited to, any bid proposal, reply or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes means:
- a. A predecessor or successor of a person convicted of a public entity crime; or
 - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of an affiliate. The ownership by one (1) person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under the arm’s length agreement, shall be a prima facie case that one (1) person controls another person.
- A person who knowingly enters into a joint venture with a person who has been convicted of a public crime in Florida during the preceding thirty-six (36) months shall be considered an affiliate.
5. I understand that a “person” as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or any entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of the entity.
6. Based upon information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement (indicate which statement applies).

_____ Neither the entity submitting this sworn statement nor any of its officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of this entity nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement or one (1) or more of its officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of this entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting the sworn statement or one (1) or more of its officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of this entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Office of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THE PUBLIC ENTITY ONLY AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDER YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF

THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO, OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

Signature

STATE OF
COUNTY OF

The foregoing instrument was acknowledged before me by means of ☐ physical presence
or

☐ online notarization, this _____ by _____, who is

personally known to me or who has produced _____ as
identification

Signature of Notary

Notary Public – State of _____

My Commission expires _____

(Printed, typed or stamped commissioned name
of Notary Public)

Serial number, if any

APPENDIX H

CITY OF DAYTONA BEACH SHORES, FLORIDA

**FOR
INDEPENDENT AUDIT SERVICES
RFP NO. 2021-02**

DRUG FREE WORKPLACE FORM

The undersigned, in accordance with the Florida Statute 287.087 hereby certifies that
_____ does:

(Proposer)

1. Publish a statement notifying that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, any Available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under Proposal a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notify the employees that, as a condition of working on the commodities or contractual services that the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug free workplace through implementation of Paragraph 1, through Paragraph 5.

As the person authorized to sign this statement, I certify that this firm fully complies with the above requirements.

Date: _____
Signature & Title



**CITY COUNCIL AGENDA MEMORANDUM
JUNE 22, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council
FROM: Nancy Maddox, Recreation Director
PREPARED BY: Nancy Maddox, Recreation Director
SUBJECT: Economic Development Lease Subsidy Grant Application- Salty Pint, LLC

SYNOPSIS:

The applicant, Salty Pint, submitted an Economic Development Grant Application on June 9, 2021, requesting a new business lease subsidy grant totaling the amount of \$9,686.30 over the course of three (3) years. The applicant is scheduled to be open on Friday, July 2, 2021 at 2136 S. Atlantic Avenue, Suite I, Daytona Beach Shores, Florida 32118 within the Winn Dixie Plaza. The Salty Pint is going to be an outstanding pub that will serve specialty sandwiches, wine and beer. Their goal is to "provide high quality food and beverage with impeccable service in a fun, unique atmosphere." They will be open seven (7) days a week, 11 a.m. - 11 p.m.

FISCAL IMPACT STATEMENT:

This is a budgeted expenditure.

BACKGROUND:

In July 2019, the Daytona Beach Shores City Council approved Ordinance 2019-06, which relates to Economic Development within City limits. The ordinance, among other things, created an "Economic Development Lease Subsidy Program," which provides grants to subsidize leases for new businesses over a three (3) year period. The lease subsidy is capped at 30%, 20%, and 10% of the lease rent for the first, second, and third year, respectively, providing the total amount disbursed by the City does not exceed \$20,000.

LEGAL REVIEW:

This is approved as to form and legality.

RECOMMENDATION:

The Economic Development Committee recommended approval of the subject grant application.

SUGGESTED MOTION:

1. "I move to approve the subject grant application and agreement as presented."
 2. "I move to approve the subject grant application and agreement with the following conditions/amendments..."
- or
3. "I move to deny the subject grant application and agreement of the basis of..."

- ATTACHMENT:**
1. Salty Pint EDP Lease Subsidy Evaluation Worksheet
 2. Salty Pint-Lease Subsidy Grant Agreement
 3. Salty Pint application and lease agreement

EDP EVALUATION CRITERIA- LEASE SUBSIDY

Business Name:	Salty Pint	Proposed Address:	2136 S. Atlantic Ave., Suite I		
Business Type:	Restaurant	Vacant Space:	Y/N	Evaluation Date:	6/14/2021

A	Mandatory Criteria-City Planner	Yes	No	Comment
1	Location in Targeted Area?	X		
2	Targeted Business?	X		
3	If no to #2, is Business Substantially Compliant & Desired As Approved by CC?			
4	Is Business A Permitted Use /Non-Residential/Mixed Use?	X		
5	Appropriate Zoning Consistent w/ Comp Plan?	X		
6	Minimum Three (3) Year Lease?	X		5 year lease

B	Supplemental Criteria Met-City Attorney	Yes	No	NA	Comment
1	Current w/ Applicable Taxes, Fees, Etc.?	X			
2	Subject to Related Foreclosure, Bankruptcy or Defaults?		X		
3	Current Related Code or Ordinance Violations?		X		
4	Applicant Willing to Enter into Agreement w/ Conditions?	X			
C	Grant Distribution-Committee	Yes	No		Comment
1	Consistency w/ED Grant Distribution Summary	X			
D	Lease Subsidy Criteria-Committee	Low	Medium	High	Amount/Comment
1	Number of New Jobs Created?			X	8 – 10 FTE
2	Desirability of Business?			X	
3	Amount of Capital Investment Made?			X	
4	New Business-Ability to Attract Other Targeted Businesses?			X	
5	Business Expansion-Satisfies Economic Development Needs of City?				n/a
6	Business Relocation-Enhance Operations ?				n/a
7	Business Relocation-Enhance Employment?				n/a
8	Lease Extension-Enhance Operations?				n/a
9	Lease Extension-Enhance Employment?				n/a
10	Additional City Council Criteria				n/a

CITY OF DAYTONA BEACH SHORES/COMMERCIAL LEASE SUBSIDY GRANT AGREEMENT WITH SALTY PINT, LLC

THIS COMMERCIAL LEASE SUBSIDY GRANT AGREEMENT (hereinafter, the “Agreement”) is made and entered into this ____ day of _____, 2021, by and between the City of Daytona Beach Shores, Florida, a Florida municipality, whose mailing address is 2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, hereinafter referred to as the “CITY”, and Salty Pint, whose address is 204 N. Ridgewood Avenue, Ormond Beach, FL 32174, a Florida Limited Liability Company, hereinafter referred to as “GRANTEE”.

WITNESSETH:

WHEREAS, the City Council of the CITY has enacted Ordinance 2019-06 to further its policy objectives of facilitating the establishment of new businesses and the expansion of existing businesses within a targeted geographical area of the CITY, which area consists of underutilized, vacant or abandoned commercial properties; and

WHEREAS, Ordinance 2019-06 authorizes a program of economic incentives designed to attract new businesses, which are presently underrepresented in the CITY, and to locate such businesses in the targeted area of the CITY for the purpose of providing residents and visitors a wider array of goods, services, entertainment and dining options, additional employment opportunities and, at the same time, expand the tax base of the CITY and eradicate vacant, abandoned and underutilized properties; and

WHEREAS, the economic incentives afforded by the ordinance include, but are not limited to, matching grants to new or existing owners of commercial properties and/or

new or existing tenants of commercial businesses in the CITY, subject to specific dollar limits and meeting certain other criteria established by the CITY, which grants may be used for interior buildouts, building façade improvements, structural alterations and/or beautification; and

WHEREAS, an alternative economic incentive in the form of a lease subsidy is also available under the ordinance, subject to specific dollar limits and meeting certain other criteria established by the CITY, to new or existing commercial lease tenants; and

WHEREAS, City Council of the CITY has determined that the investment of public funds in the economic incentive program generally, and in this Agreement in particular, are in the public interest and provide for and accomplish a public purpose; and

WHEREAS, the City Council of the CITY has found and determined that the provisions of this Agreement are consistent with applicable law and implement the provisions of controlling legal authority.

NOW, THEREFORE, in consideration of the terms, provisions and covenants contained herein, the parties hereto do mutually agree as follows:

SECTION 1. RECITALS. The foregoing recitals are true and correct, form a material part of this Agreement upon which the parties have relied and are hereby adopted and incorporated by reference herein.

SECTION 2. PURPOSE AND TERM. Subject to the terms and conditions hereinafter set forth, the CITY shall provide a Lease Subsidy Grant to the GRANTEE and the GRANTEE shall, in consideration for the receipt of said grant, continuously operate:

Name of Business: Salty Pint

Located at: 2136 S. Atlantic Avenue (Unit I), Daytona Beach Shores, FL 32118

for the term of the of this, being 3 years from the date first stated above.

SECTION 3. TERMS AND CONDITIONS FOR PAYMENT OF LEASE SUBSIDY

(A). The CITY shall pay the Lease Subsidy Grant to the GRANTEE under the terms and conditions of this Agreement as follow:

1. The GRANTEE business must be current in the payment of all taxes, fees, special assessments and charges for services owed to the CITY, the City Of Port Orange, the City of South Daytona, Volusia County, the State of Florida and the US government at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

2. The GRANTEE must not be in default of its obligations to any creditor such as would threaten to, or in fact, cause the discontinuance of the business before the end of this Agreement; and

3. The GRANTEE must not be subject to any pending or threatened mortgage or lien foreclosure or bankruptcy proceedings at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

4. The GRANTEE must not be in violation of any code or ordinance of the CITY or of any State or Federal law or regulation governing the operation of the business at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

5. The GRANTEE must not engage in any prohibited or nonconforming uses under the code, ordinances or regulations of the CITY or of any law or regulations of the State of Florida and the Federal Government at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

6. The GRANTEE must not engage in any business other than the business for which this Lease Subsidy Grant has been approved by the CITY at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement, without the prior written approval of the CITY, including any conditions placed on the Grant by the CITY upon approval; and

7. The GRANTEE shall be required to submit such documentation as may be reasonably required by the CITY to verify compliance by the GRANTEE with the terms and conditions of this Agreement prior to payment by the CITY of any Lease Subsidy Grant payment.

8. The GRANTEE shall immediately notify the City Manager if the lease is terminated or if Grantee has received notice of a default from the Landlord.

9. The GRANTEE shall immediately notify the City Manager if the GRANTEE cannot faithfully execute the terms of this agreement or any term or condition of the subject grant approval imposed by the City Council.

(B). The GRANTEE shall be in default of this agreement under any of the following conditions:

1. The GRANTEE fails to operate the business pursuant to the grant

application and business plan provided to the City Council for the consideration of this grant agreement; or

2. The GRANTEE fails to operate the business pursuant to any term or condition imposed by the City Council in the approval of this grant agreement; or

3. The GRANTEE is in violation of any term or condition in this Agreement.

(C) If the GRANTEE is in violation of any of the terms and conditions of this Agreement, the CITY shall declare a default and future Lease Subsidy Grant payments suspended pending the cancellation provisions of Section 7 for failure to timely cure the default, if any.

SECTION 4. PAYMENT OF LEASE SUBSIDY GRANT BY CITY TO GRANTEE.

(A). Provided the GRANTEE is in compliance with all terms and conditions of this Agreement, the CITY shall pay to the GRANTEE a monthly Lease Subsidy Grant for not more than 3 years and not exceeding a total of \$9,686.30 based on the following formula:

1. For the first year of the Lease Subsidy Grant: Monthly rent times 30%.

Total year one disbursement shall not exceed \$4680.

2. For the second year of the Lease Subsidy Grant: Monthly rent times 20%.

Total year two disbursement shall not exceed \$3213.60.

3. For the third year of the Lease Subsidy Grant: Monthly rent times 10%.

Total year three disbursement shall not exceed \$1654.80.

SECTION 5. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties hereto, and no right or case of action shall accrue upon or by reason hereon, to or for the benefit of any third party not a formal party hereto.

SECTION 6. ASSIGNMENT. This Agreement shall be binding on the parties hereto and their representatives and successors. Neither party shall assign this Agreement or the rights and obligations hereof to any other party.

SECTION 7. DEFAULT.

(A). In the event of default by the GRANTEE or the CITY, the aggrieved party shall be entitled to any and all legal remedies available under Florida law.

(B). The aggrieved party shall give the defaulting party written notice of any defaults hereunder and shall allow the defaulting party thirty (30) days from the date of receipt to cure such defaults. Upon the failure to timely cure the default, the aggrieved party may cancel the Agreement by notice as provided below.

SECTION 8. NOTICES. Any notice required or allowed hereunder shall be in writing and either (1) personally served upon a party, with an affidavit of service from the server or (2) sent by a commercial delivery service, restricted delivery, or (3) by US mail, certified delivery, with return receipt requested, to the designated address set forth below for that party or such other address as a party may specify by a prior written notice delivered in accordance herewith. If a party cannot be served in the manner prescribed above after two attempts, delivery may be accomplished by publication, one time, in a newspaper of general circulation.

SECTION 9. THE GRANTEE'S MANDATORY COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES, AND PUBLIC RECORDS REQUESTS.

In order to comply with Section 119.0701, *Florida Statutes*, public records laws, the GRANTEE must:

(A). Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.

(B). Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(C). Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(D). Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of the GRANTEE upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.

(E). If the GRANTEE does not comply with a public records request, the CITY shall enforce the contract provisions in accordance with this Agreement.

(F). Failure by the GRANTEE to grant such public access and comply with public records requests shall be grounds for immediate unilateral cancellation of this Agreement by the CITY. The GRANTEE shall promptly provide the CITY with a copy of

any request to inspect or copy public records in possession of the GRANTEE and shall promptly provide the CITY with a copy of the GRANTEE's response to each such request.

(G). **IF THE GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE GRANTEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CHERI SCHWAB, CITY CLERK, (386) 763-5353, CSCHWAB@CITYOFDBS.ORG, 2990 SOUTH ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118.**

SECTION 10. SEVERABILITY. If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of the Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be affected. To that end, the terms of this Agreement is declared severable.

SECTION 11. TIME OF THE ESSENCE. Time is hereby declared essence to the lawful performance of the duties and obligations contained in this Agreement.

SECTION 12. APPLICABLE LAW/VENUE. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Venue for any legal proceeding related to this Agreement

shall be in the Seventh Judicial Circuit Court in and for Volusia County, Florida.

SECTION 13. ATTORNEYS FEES. In the event it becomes necessary to institute legal action to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover all out-of-pocket expenses and costs and all reasonable attorneys fees, paralegal fees and associated fees and costs from the date of filing until the termination of litigation whether incurred at trial, on appeal, or otherwise.

SECTION 14. NONDISCRIMINATION. The GRANTEE agrees that it will not discriminate against any business invitee, employee or applicant for employment because of race, color, religion, sex, age, national origin or disability. The GRANTEE, moreover, shall comply with all the requirements of the *Americans with Disability Act*, the regulations of the Federal government issued thereunder, and any and all requirements of State law related thereto.

SECTION 15. INTERPRETATION. The CITY and the GRANTEE agree that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be considered to be equally applicable under another in the interpretation of this Agreement.

SECTION 16. MODIFICATION. This Agreement may not be amended, changed, or modified, and material provisions hereunder may not be waived, except by a written document, of equal dignity herewith, approved by the City Council of the CITY and the

GRANTEE and executed by all parties to this Agreement.

SECTION 17. ENTIRE AGREEMENT: EFFECT IN PRIOR AGREEMENT.

This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings, and agreements between parties relating to the subject matter of this Agreement. Amendments to and waivers of the provisions herein shall be made by the parties in writing by formal amendment.

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Agreement in the date and year first above written.

ATTEST:

CITY OF DAYTONA BEACH SHORES

Cheri Schwab, City Clerk

Nancy J. Miller, Mayor

Michael T. Booker, City Manager

Approved as to form:

JOHN CARY, CITY ATTORNEY

SALTY PINT, GRANTEE

ATTEST:

John Fairbanks - Owner

:

DAYTONA BEACH SHORES ECONOMIC DEVELOPMENT PROGRAM

GRANT APPLICATION

(There is no entitlement to any reward, but the City encourages applications and the opportunity to work with applicants.)

DATE RECEIVED:

REFERENCE:

(Please Print)

APPLICANT NAME: SALTY PINT
CONTACT PERSON (if an entity): JOHN FAIRBANKS 386-214-1700
ADDRESS: 204 N. RIDGEWOOD AVE
CITY: ORMOND BEACH STATE: FL ZIP: 32174
TELEPHONE: 386-214-1700 FAX:
EMAIL ADDRESS: john@saltypint.com

APPLICANT BUSINESS STRUCTURE:

(Please check all that apply)

☐ Sole proprietorship/individual

☐ Corporation

☒ Limited Liability Company

☐ Other

GRANT TYPE:

(Check one only)

Lease Subsidy

Other

☒ New Business (Buildout or Lease Subsidy)

☐ Land Purchase

☐ Existing Business Expansion

☐ Façade/Beautification

☐ Existing Business Relocation

☐ Alternative Grant Request

☐ Existing Business Lease Extension

PROJECT SITE INFORMATION:

Address: 2136 S. Atlantic Ave SUITE I

City: DAYTONA BEACH SHORES State: FL

Zip: 32118

Tax Parcel ID: 531502030013

CERTIFICATION BY APPLICANT

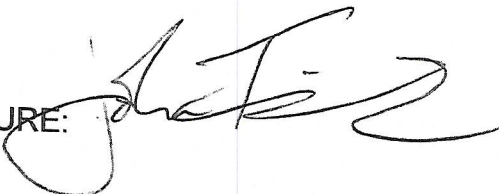
The applicant certifies that all information in this application, and all information furnished in support of this application, is given for obtaining funds from the City of Daytona Beach Shores Economic Development Program and is true and complete to the best of the applicant's knowledge and belief.

If the applicant is not the owner of the property, or if the applicant is an organization rather than an individual, the applicant certifies that he/she has the authority to sign and enter into an agreement to perform the improvements on the property. Evidence of this authority must be attached.

Verification of any of the information contained in this application may be obtained from any source named herein.

It is further understood that all information obtained will be held in strict confidence and used for no other purposes by the City of Daytona Beach Shores inconsistent with controlling law. I have received and reviewed the program guidelines prior to submitting this application.

SIGNATURE:



DATE: 5/11/21

PRINTED NAME:

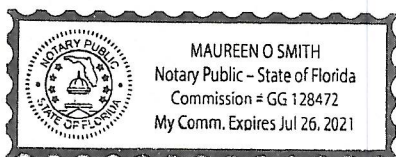
John FAIRBANKS

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 11th day of May 20 21 by John Fairbanks, who is personally known to me, OR who has produced Florida Driver's License as identification and did (did not) take an oath.

My commission expires: July 26, 2021



Maureen O. Smith
Printed Name: Maureen O. Smith
NOTARY PUBLIC

1.2 The Vision

Salty Pint strives to be an outstanding neighborhood pub in the Shores. Our goal is to provide high quality food and beverage with impeccable service in a fun, unique atmosphere. With an eclectic list of the finest beer on the planet, signature specialty sandwiches and state-of-the-art HD Televisions and premium sound, we will be the neighbor locals always wished they had. To entertain, Salty Pint will always have something that will stimulate the senses on our screens, not just mindless news and weather. All major sports will be offered but special attention will be given to alternative sports such as surfing, volleyball, rugby and the "extreme sports" through the use of the web, highlight reels, surf videos, streaming college matches or wipeout compilations. Game play in all forms will be encouraged as classic board games such as checker and chess, dice, cards and other games to keep you entertained, will be provided. Salty Pints' marketing will be focused on the local sports scenes including volleyball tournaments, surfing contests, pickleball tournaments and golf leagues. Our culture will focus on good times with great people.

1.3 Why it's going to work

The keys to achieving our goals are:

- Creating a place where a broad spectrum of people can enjoy exceptional beer, distinctive sandwiches, and incomparable service.
- Unique location in a busy plaza in the heart of the Shores.
- My established clientele and relationships that I have established over the last 16 years.
- Total lack of comparable venues in the area



VOLUSIA COUNTY NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS REAL ESTATE ANNUAL TAX BILL

PROPERTY ADDRESS: 2200 S ATLANTIC AVE

LEGAL DESCRIPTION: DAYTONA BEACH SHORES 32118
15 15 33 E 254 FT OF N 150 FT OF S 590 FT ON ATL AVE BLK 3 C
OOK SUB EXC E 30 FT IN R/W & INC N 100 FT OF LOT 3
PENNLANTIC SUB & INC 50 FT VACATED ST N O F SAME &
LOTS 4 TO 7 INC PEN
See Additional Legal on Tax Roll



337
6-11165



WD PLAZA LLC
5025-M WINTERS CHAPEL RD
ATLANTA, GA 30360



Pay Online

PARCEL:	531502030013
ALTERNATE KEY:	3409761
MILLAGE CODE:	403
TAX YEAR:	2020

Pay online at volusia.county-taxes.com

WALK-IN CUSTOMERS PLEASE BRING ENTIRE NOTICE

TAXES BECOME DELINQUENT APRIL

IF POSTMARKED BY:	Nov 30, 2020	Dec 31, 2020	Jan 31, 2021	Feb 28, 2021	Mar 31, 2021
DISCOUNT:	4%	3%	2%	1%	0%
PAY THIS AMOUNT:	25,073.73	25,334.92	25,596.10	25,857.29	26,118.47

AD VALOREM TAXES

TAXING AUTHORITY	MILLAGE	ASSESSED VALUE	EXEMPTION	TAXABLE VALUE	TAX AMOUNT
VOLUSIA COUNTY GENERAL FUND	5.45000	1,283,135	0	1,283,135	6,993.09
VOLUSIA COUNTY LIBRARY	0.51740	1,283,135	0	1,283,135	663.89
VOLUSIA FOREVER	0.10520	1,283,135	0	1,283,135	134.99
VOLUSIA ECHO	0.00000	1,283,135	0	1,283,135	0.00
VOLUSIA FOREVER I&S 2005	0.07830	1,283,135	0	1,283,135	100.47
VOLUSIA COUNTY MOSQUITO CONTRO	0.17810	1,283,135	0	1,283,135	228.53
PONCE INLET PORT AUTHORITY	0.08800	1,283,135	0	1,283,135	112.92
SCHOOL	5.90700	1,283,135	0	1,283,135	7,579.47
DAYTONA BEACH SHORES	5.04760	1,283,135	0	1,283,135	6,476.75
DAYTONA BEACH SHORES I&S 2006	1.73500	1,283,135	0	1,283,135	2,226.24
ST JOHNS WATER MANAGEMENT DIST	0.22870	1,283,135	0	1,283,135	293.45
FLORIDA INLAND NAVIGATION DIST	0.03200	1,283,135	0	1,283,135	41.06
HALIFAX HOSPITAL AUTHORITY	0.98790	1,283,135	0	1,283,135	1,267.61

TOTAL MILLAGE RATE:

20.35520

TOTAL TAXES:

\$26,118.47

NON-AD VALOREM ASSESSMENTS

LEVYING AUTHORITY	TELEPHONE	RATE PER UNIT	AMOUNT
-------------------	-----------	---------------	--------

TOTAL ASSESSMENTS:

\$0.00

TOTAL COMBINED TAXES AND ASSESSMENTS:

\$26,118.47

For additional information please see reverse side.

Pay online at volusia.county-taxes.com

Phone: 386-736-5938

Email: Revenue@volusia.org

RETURN WITH PAYMENT

Make payment to:
COUNTY OF VOLUSIA

Mail payment to:
County of Volusia-Revenue Division
123 W Indiana Ave Room 103
DeLand FL 32720

PAY IN U.S. DOLLARS DRAWN ON A U.S. BANK

WD PLAZA LLC
5025-M WINTERS CHAPEL RD
ATLANTA, GA 30360

VOLUSIA COUNTY REAL ESTATE ANNUAL TAX BILL

NOTE: In order to avoid a rejected payment,
please verify that the legal written line of your
check matches the exact amount due based on
the "IF POSTMARKED BY" date.

PARCEL:	531502030013
ALTERNATE KEY:	3409761
TAX YEAR:	2020

PROPERTY ADDRESS: 2200 S ATLANTIC AVE
DAYTONA BEACH SHORES 32118

IF POSTMARKED BY:	Nov 30, 2020	Dec 31, 2020	Jan 31, 2021	Feb 28, 2021	Mar 31, 2021
DISCOUNT:	4%	3%	2%	1%	0%
PAY THIS AMOUNT:	25,073.73	25,334.92	25,596.10	25,857.29	26,118.47

Please do not staple, tape, or paperclip your payment to this stub.

PLEASE DO NOT WRITE ON THIS STUB



DAYTONA BEACH SHORES ECONOMIC DEVELOPMENT PROGRAM OVERVIEW

(See Ordinance Number 2019-06)

A. ECONOMIC DEVELOPMENT LAND PURCHASE PROGRAM (LPP):

To encourage the renovation, development, redevelopment and productive use of lands and buildings within the City, the City Council may enter development agreements, which may relate to either City-owned property (an RFP is currently issued for a parcel) or non-City-owned real property. The City shall impose conditions in each development to prevent a buyer purchasing City-owned real property from holding the real property for investment purposes or implementing a flip of the real property. The City's goal is that the real property shall be expeditiously developed in a high quality manner for the benefit of the citizens of the City.

LPP Benefits:

Purchaser of the land may receive a grant of up to a 10% of the purchase price to allow: (1) the purchaser of a City owned real property to use the funds to assist in the development of the real property or (2) the purchaser of a non-City owned real property to use the funds to assist in the build out of the real property.

City Considerations (There Is No Entitlement To Approval):

1. Development plans must be of high quality.
2. Development plans must enhance high quality economic development of the City.

B. ECONOMIC DEVELOPMENT COMMERCIAL LEASE SUBSIDY PROGRAM (LSP):

This program will provide a subsidy, under appropriate circumstances, to subsidize leases relating to the following: (a) expansion of existing tenancies; (b) new businesses within the City; (c) existing businesses which desire to relocate to a larger space in the City; and (d) businesses which extend a lease for a longer term of at least three (3) years.

LSP Program Benefits:

Over a three (3) year period in order to assist selected businesses to commence economic activity and remain a going concern, leases may be subsidized up to 30% for the first year of the lease, up to 20% for the second year of the lease, and up to 10% for the third year of the lease. The total amount awarded under the lease subsidy program may not exceed \$20,000.00.

4. All Types: (a) Number of new jobs created; (b) the desirability of the type of business for the City; and (c) capital investment to be made.

Additional City Considerations for LSP & AGP (There Is No Entitlement To Approval):

The City Council shall evaluate applications based on such criteria as it deems appropriate and in the best interest of the City to include, but not be limited to, the following:

1. Businesses that due to their success will attract other businesses to the City.
2. Renovation and development projects that will spur additional development and private investment.
3. Renovation and development projects that will attract desirable new businesses and create an effective merchandise mix.
4. Renovation and development projects that will have a substantial positive visual and aesthetic impact to the City.
5. Renovation and development projects that will result in filling vacant retail space.
6. Renovation and development projects that will increase real property value(s).
7. Renovation and development projects that will increase employment opportunities within the City.
8. Renovation and development projects that work in favorable concert with other development within the City by providing enhanced activities for the City.

C. ALTERNATIVE GRANT PROGRAM (AGP):

In the event that an owner of real property has engaged in or entered a business relationship in a manner which the City determines is not conducive to a lease subsidy being granted by the City, the City may enter grant agreements with such applicants such as, by way of example, facade or beautification grant agreements. Such grants may be awarded under conditions that address the unique nature of the business arrangement within which context the real property is held, or the business operated. The total amount of the grant under an agreement may not exceed \$20,000.00.

City Considerations (There Is No Entitlement To Approval):

1. The City attains substantially or more of the same economic and other benefits that are substantially the same or greater than the City would enjoy under a lease subsidy award.

For additional information, please contact:

Stewart Cruz, AICP
City Planner
Email: scruc@cityofdbs.org
Tel. (386) 763-5361

and performance of their respective obligations under the Lease, as amended hereby. Guarantors and Tenant hereby ratify each and every term, covenant and obligation of Tenant and Guarantor under the Lease and the Guaranty, as applicable.

4. Except as amended by this Amendment, the Lease is not otherwise amended, and the Lease remains in full force and effect, as amended hereby. In the event of a conflict between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall control.
5. This Amendment may be executed in multiple counterparts that, when taken together, shall constitute a single original. Counterparts may be exchanged electronically, and such electronic versions shall be deemed originals for all purposes.

IN WITNESS WHEREOF, Landlord, Tenant and Guarantor have executed this First Amendment as of the date first above written.

Landlord:

WD Plaza, LLC

DocuSigned by:
Jeremy Rosenthal
By: 140C4923DDA9456...
Name: Jeremy Rosenthal

Tenant:

Salty Pint, LLC

DocuSigned by:
Kevin Wakefield
By: 7B1E90CFCB7E4D2...
Name: Kevin Wakefield

DocuSigned by:
Kevin Wakefield
7B1E90CFCB7E4D2...

Kevin Wakefield, Guarantor

DocuSigned by:
John Fairbanks
757E583251734D5...

John Fairbanks, Guarantor

Carbon Copy Events

Witness Events

Notary Events

Envelope Summary Events

Envelope Sent
Certified Delivered
Signing Complete
Completed

Payment Events

Electronic Record and Signature Disclosure

Status

Signature

Signature

Status

Hashed/Encrypted
Security Checked
Security Checked
Security Checked

Status

Timestamp

Timestamp

Timestamp

Timestamps

4/13/2021 12:46:46 PM
4/13/2021 3:44:22 PM
4/13/2021 3:44:31 PM
4/13/2021 3:44:31 PM

Timestamps

electronically from us.

How to contact M P Shopping Centers:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: Jeremy@mpshoppingcenters.com

To advise M P Shopping Centers of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at Jeremy@mpshoppingcenters.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc. to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in the DocuSign system.

To request paper copies from M P Shopping Centers

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to Jeremy@mpshoppingcenters.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with M P Shopping Centers

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to Jeremy@mpshoppingcenters.com and in the body of such request you must state your e-mail, full name, US Postal Address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows® 2000, Windows® XP, Windows Vista®; Mac OS® X
Browsers:	Final release versions of Internet Explorer® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari™ 3.0 or above (Mac only)
PDF Reader:	Acrobat® or similar software may be required to view and print PDF files
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	Allow per session cookies

** These minimum requirements are subject to change. If these requirements change, you will be asked to re-accept the disclosure. Pre-release (e.g. beta) versions of operating systems and browsers are not supported.

Acknowledging your access and consent to receive materials electronically

Shopping Center Lease

3/1/2021

3/1/2021

THIS LEASE, made as of this _____ day of _____, 2021, by and between **Winn-Dixie Plaza; a wholly owned subsidiary of M&P Holdings, LLC, a Georgia limited liability company** herein called "Landlord", and **Kevin Wakefield** herein called "Tenant".

WITNESSETH:

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of Tenant to be observed and performed, Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, those certain premises (herein called the "Premises") consisting of a store having interior measurements of approximately 20 feet in width and 60 feet in depth. Said Premises contains an area of approximately 1,200 square feet measured (from side to side) from the exterior of any side exterior wall if there be one and, if not, from the center of a side partition wall to the center of the next partition wall separating one store space from another and measured (front to back) from the exterior surface of the store front to the outside surface of the rear wall as said Premises may now exist or hereafter be constructed in the **Winn-Dixie Plaza** Shopping Center (the "Shopping Center") located at **2136-I Atlantic Avenue** in the City of **Daytona Beach Shores** County of **Volusia** State of **Florida** for the term and upon the conditions and agreements hereinafter set forth, and Landlord and Tenant hereby agree as follows:

ARTICLE I

TERM

1.01 COMMENCEMENT AND EXPIRATION DATES OF TERM.

The term of this Lease and Tenant's obligation to pay rent hereunder shall commence on that date (the "Commencement Date") which is **July 1, 2021** and shall end, unless sooner terminated in accordance with the provisions hereinafter contained, on the last day of the **FIFTH** consecutive full Lease Year (as hereinafter defined). Notwithstanding anything to the contrary contained in this Lease, the expiration date of this Lease shall be **June 30, 2026**.

1.02 LEASE YEAR DEFINED.

The term "Lease Year" as used herein shall mean a period of twelve (12) consecutive full calendar months. In the event the date of this Lease is a day other than the first day of a calendar month, then the first Lease Year shall commence on the first day of the first full calendar month succeeding the date of this Lease, and the first Lease Year shall consist of twelve (12) consecutive full calendar months plus said partial month. Each succeeding Lease Year shall commence upon the anniversary of the first Lease Year.

1.03 FAILURE OF TENANT TO OPEN.

In the event Landlord notifies Tenant in writing that the Premises are ready for occupancy as hereinafter defined, and Tenant fails to take possession and open the Premises for business on or before **July 1, 2021**, fully fixtured, stocked and staffed within the time provided herein, then Landlord shall have, in addition to any and all remedies hereinafter provided, the right to immediately terminate this Lease with written notice to Tenant, and Landlord shall not be subject to any liability from Tenant by reason of such termination or otherwise.

1.04 QUIET ENJOYMENT

Upon Tenant's paying the rent reserved hereunder and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire term hereof, subject to all of the provisions of this Lease.

ARTICLE II

RENT

2.01 MINIMUM RENT

Tenant agrees to pay the Landlord at the office of Landlord, or at such other place designated by Landlord, without any prior demand therefore and without any deduction of set-off whatsoever, and as Fixed Minimum Rent:

- (a) The sum of **\$1,300.00** in advance upon the first day of each calendar month of the FIRST through the SECOND lease year inclusive.
- (b) The sum of **\$1,339.00** in advance upon the first day of each calendar month of the THIRD through the THIRD lease year inclusive
- (c) The sum of **\$1,379.00** in advance upon the first day of each calendar month of the FOURTH through the FOURTH lease year inclusive
- (d) The sum of **\$1,420.00** in advance upon the first day of each calendar month of the FIFTH through the FIFTH lease year inclusive

If the term shall commence upon a day other than the first day of a calendar month, then Tenant shall pay, upon the Commencement Date of the term a pro-rata portion of the Fixed Minimum Rent described in the foregoing clause (a) prorated on a per diem basis with respect to the fractional calendar month preceding the commencement of the first Lease Year hereof.

All checks returned to Landlord after deposit shall incur a charge to Tenant's account in the amount of **\$25.00**.

2.02 PERCENTAGE RENTS	-	Deleted Intentionally
2.03 REPORTS	-	Deleted Intentionally
2.04 RIGHT TO EXAMINE BOOKS	-	Deleted Intentionally
2.05 AUDIT	-	Deleted Intentionally
2.06 ADDITIONAL RENT		

Tenant shall pay, as Additional Rent, any money required to be paid pursuant to this Article II, and all sums of money or charges required to be paid by Tenant under this Lease, other than Fixed Minimum Rent, whether or not the same be specifically designated "Additional Rent". If such amounts and charges are not paid by Tenant under this Lease at the time provided in this Lease, whether or not the same are specifically designated "Additional Rent", they shall nevertheless, if not paid when due, be collectible as Additional Rent with the next installment of Fixed Minimum Rent thereafter becoming due hereunder. But nothing contained herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time same becomes due and payable hereunder, or limit or waive the enforcement of any other remedy of Landlord hereunder.

3.02 LICENSE

All common areas and facilities not within the Premises, which Tenant may be permitted to use and occupy, are to be used and occupied under a revocable license, and if the amount or type of such areas be diminished, Landlord shall not be subject to any liability nor shall Tenant be entitled to any compensation or diminution or abatement of rent, nor shall diminution of such areas be deemed to constitute a constructive or actual eviction of Tenant.

3.03 COST OF MAINTENANCE OF COMMON AREAS

(a) For purposes of this Lease, the term "Common Area Charges" means and shall include the total cost and expense incurred in operating, maintaining and replacing the Common Areas of the Property, specifically including, without limitation: gardening and landscaping; the cost of public liability insurance for bodily injury and property damage; repairs; painting the Shopping Center, line painting; replacing, repairing and maintaining outdoor and indoor paving for vehicular and pedestrian use and lighting; sanitary and pest control; removal of snow and ice (if any); removal of trash, rubbish, garbage and other refuse; reasonable reserves for replacements and repairs; management; bookkeeping; and the cost of personnel to implement, supervise or administer such services, to direct traffic and parking and to provide security and police services, if provided, for the Property; and all utilities or costs for services consumed in, on or about the Property which is not separately metered or otherwise allocated to tenants. Included in the Common Area Charges shall be a fee to the Landlord for management, bookkeeping, legal and other administrative services equal to twenty percent of the total common area expenses incurred.

(b) Tenant covenants and agrees to pay to Landlord, as Additional Rent, without offset or deduction, Tenant's Proportionate Share of Common Area Charges on the first day of each month in advance, such amount as Landlord shall estimate or determine to be equal to 1/12 of Tenant's Proportionate Share of Common Area Charges for the then current Lease Year. Upon final determination of Common Area Charges for such Lease Year, Landlord shall compute Tenant's Proportionate Share thereof, and a summary shall be furnished to Tenant reflecting the actual amount of Common Area Charges for such Lease Year. In the event Tenant's Proportionate Share of Common Area Charges paid by Tenant during the preceding Lease Year shall be in excess of Tenant's Proportionate Share of the actual amount of Common Area Charges for such Lease Year, the excess shall be credited against the next ensuing payments due from Tenant under this Paragraph 3.03. In the event paid by Tenant shall be less than Tenant's Proportionate Share of the actual Common Area Charges for such Lease Year, then Tenant shall pay the remaining balance to Landlord within ten (10) days after such notice is furnished. The notice so furnished to Tenant shall also include a computation of the estimated sums to become due from Tenant each month for the ensuing Lease Year under this Paragraph 3.03 and the monthly payments to be made under this Paragraph 3.03 shall be adjusted accordingly for such ensuing Lease Year.

(c) Any delay or failure of Landlord in computing or billing Common Area Charges hereinabove provided shall not prejudice the right of Landlord to thereafter render bills for such period or any subsequent period, nor constitute a waiver of or in any way impair the continuing obligation of Tenant to pay Tenant's Proportionate Share of such Common Area Charges.

Landlord's estimation of Tenant's Proportionate Share of Common Area Charges for the first Lease Year of the term is **\$161.00** per month.

ARTICLE IV

USE OF PREMISES

4.01 TENANT'S USE

Tenant shall use and occupy the Premises for the purpose of operating a **Sandwich Shop / Bar (See Special Stipulations)** and shall not use or occupy the Premises or permit the same to be used for any other purpose. Tenant agrees to maintain business hours in keeping with similar stores or businesses in the community in which the Shopping Center is located. Tenant further agrees that it will use the Premises in such a manner so as not to interfere with or infringe on the rights of other Tenants in the Shopping Center. Tenant shall not use or occupy the Premises in violation of any law, ordinance, regulation or other governmental directives having jurisdiction thereof or the certificate of occupancy issued for the building of which the Premises are a part, and shall, upon five (5) days written notice from Landlord, discontinue any use of the Premises which is declared by any governmental authority having jurisdiction to be in violation of any law, ordinance, regulation or directive or of said certificate of occupancy. During the term hereof, Tenant shall be in continuous use and occupancy of the Premises and shall not vacate or abandon the same.

4.02 TENANT'S COMPLIANCE WITH ENVIRONMENTAL LAWS

Tenant covenants and warrants that it shall not use, discharge, dump, spill, or unlawfully use or store any "Hazardous Substances" or "Hazardous Materials" (as such terms may be defined in any federal, state or local environmental laws and regulations) on or about the Shopping Center during the Lease term except in compliance with applicable laws. If any such Hazardous Substances or Hazardous Materials are discovered on or about the Shopping Center which are introduced by Tenant, all costs of removal incurred by, all liability imposed upon, or damages suffered by Landlord shall be borne by Tenant, which costs, liabilities, and damages Tenant shall pay to Landlord within ten (10) days of receipt of a properly documented invoice from Landlord and Tenant hereby agrees to indemnify Landlord from and against all such costs, liability, or damage. The rights granted to Landlord herein shall be in furtherance, and not in limitation, of any other rights Landlord may have pursuant to this Lease. The terms and provisions of this Section 4.02 shall survive the expiration or termination of this Lease.

ARTICLE V

ALTERATION, REPAIR AND MAINTENANCE

5.01 ALTERATIONS

Tenant shall have the right, at any time during the term hereof, without the written consent of Landlord but upon ten (10) days prior written notice to Landlord by Tenant of its intention so to do, to make additions, alterations, changes or improvements in or to the Premises or any part thereof as Tenant may from time to time during the term hereof deem necessary or desirable; provided, however, that Tenant agrees not to make any additions, alterations, changes or improvements (a) in excess of Three Thousand Dollars (\$3,000.00) or (b) which affect the structural strength, or outward appearance of the Premises or the building, without the prior written consent of Landlord. In addition, any contractors or subcontractors performing the alteration work shall be licensed as required by applicable law, and shall carry general liability, workmen's compensation and such other insurance in form, scope and content, and in amounts, as may be required by Landlord under the circumstances. Tenant shall provide Landlord with certificates evidencing such insurance and showing Landlord and M & P Management as additional insureds prior to commencing any work. Any additions, alterations, changes or improvements which may be made in or to the Premises by Tenant during the term hereof shall, upon completion thereof, become the property of Landlord, provided, however, Landlord may at its option, require Tenant, at Tenant's sole cost and expense, to remove any such additions, alterations, changes or improvements at the expiration or sooner termination of the term hereof, and to repair any damages to the Premises caused by such removal. Tenant hereby indemnifies Landlord against, and shall keep the Premises and Shopping Center free from, all mechanics liens or other such liens arising from any work performed, material furnished, or obligations incurred by Tenant in connection with the Premises or the Shopping Center. Landlord hereby reserves the right at any time and from time to time during the term thereof, to make any additions, alterations, changes or improvements (including without limitation, building additional stories) on, in or to the building in which the Premises are contained, and to build additional structures adjoining thereto, without any liability to or offsets in favor of Tenant. Landlord also reserves the right to construct other buildings and improvements in the Shopping Center from time to time and at any time during the term hereof, and to make alterations thereof or additions thereto and to build additional stories on any such building or buildings and to build adjoining same and to construct doubledeck or elevated parking facilities, without any liability to or offsets in favor of Tenant. The terms and provisions of this Paragraph 5.01 shall survive the expiration or termination of this Lease.

ARTICLE VIII
INSURANCE AND INDEMNITY

8.01 TENANT INSURANCE

Tenant shall procure and maintain, at its sole cost and expense and without interruption for the entirety of the lease agreement term, the following policies of insurance:

Liability Insurance: Commercial general liability insurance on an occurrence based ISO standard form policy covering liability for bodily injury and property damage and endorsed to add Landlord and M&P Management as additional insured by means of endorsement at least as broad as the Insurance Services Organization's "Additional-Insured-Managers or Lessors of Premises" Endorsement. Coverage shall be primary and non-contributory to other insurance available to Landlord and M&P Management and containing a separation of insureds provision. Such commercial general liability insurance shall cover occurrences arising from tenant's and Tenant's agents use, operation, ownership, occupancy and maintenance of the Premises and all areas appurtenant thereto with coverage limits no less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, and with a sublimit of no less than \$100,000 for damage to rented premises with any deductible or retained loss in an amount no greater than \$5,000 which shall be the sole responsibility of Tenant for payment. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder.

Property Insurance: Property and rental income loss insurance covering loss or damage by fire, lightening, water, wind and such other perils as are included in a standard "special causes of loss form" property insurance policy in an amount no less than one hundred percent (100%) of the replacement cost of all personal property including but not limited to signs, stock, inventory, furniture and fixtures, equipment, all glass including plate glass, and improvements and betterments installed in the Premises, at any time, by Tenant; business income or rental income insurance covering no less than twelve (12) months of gross revenue or (and with limits sufficient to insure) the "actual loss sustained" for a restoration period no less than twelve (12) months. The loss valuation clause of the policy shall be replacement cost value. Tenant shall have its property insurer waive any right of subrogated recovery from Landlord or M&P Management.

General: All insurance policies contemplated by this Article VII shall name Tenant as named insured. Tenant shall provide Landlord no later than the first day Tenant occupies the Premises certificates of insurance in a form and substance acceptable to Landlord, including copies of policy endorsements pertaining to coverage required by this lease agreement. Thereafter, Tenant shall provide such certificates within fifteen (15) days following renewal of any such policy. Tenant shall provide Landlord with no less than seven (7) days' notice of cancellation or non-renewal of any policy required herein. Without limitation on the foregoing, all policies shall be insured by a company or companies with a rating of A-VII or higher by A.M. Best Co. In the event Tenant fails to obtain or maintain the insurance required hereunder, and fails to provide Landlord with the required certificates of insurance within ten (10) days after demand therefore, Landlord may obtain same (but shall have no obligation to do so) and any costs incurred by Landlord in connection therewith shall be payable by Tenant upon demand. Tenant agrees that its insurance shall be primary over any insurance which may be available to Landlord. In the event of any loss of property or earnings of the Tenant as a result of property damage, the Tenant agrees not to seek recovery against the Landlord and further agrees that it shall require an express waiver of any right of subrogation by its insurance company against Landlord.

8.02 Extra Hazard Insurance Premiums

Tenant agrees that it will not keep, use, sell or offer for sale in or upon the Premises any article or permit any activity, which may be prohibited by the standard form of property or commercial general liability insurance policy. Tenant agrees to pay any increase in premiums for property or commercial general liability insurance which may be carried by Landlord on the Premises or the building of which they are a part, resulting from the type of merchandise sold or services rendered by Tenant or activities in the Premises, whether or not Landlord has consented to the same. In determining whether increased premiums are the result of Tenant's use of the Premises, a schedule, issued by the organization making the insurance rate on the Premises, showing various components of such rate, shall be conclusive evidence of the several items and charges, which make up the fire and public liability insurance rate on the Premises.

Tenant shall not knowingly use or occupy the Premises or any part thereof, or suffer or permit the same to be use or occupied for any business or purpose deemed extra hazardous on account of fire or otherwise. In the event Tenant's use and/or occupancy causes any increase of premium for the fire, boiler and/or casualty rates on the Premises or any part thereof above the rate for the lease hazardous type of occupancy legally permitted in the Premises, Tenant shall pay such additional premium on the fire, boiler and/or casualty insurance policy that may be carried by Landlord for its protection against rent loss caused by damage to property. Bills for such additional premiums shall be rendered by Landlord to Tenant at such times as Landlord may elect, and shall be due from and payable to Landlord when rendered in writing, but such increases in the rate of the insurance shall not be deemed a breach of this covenant by Tenant. Failure to pay amounts due hereunder shall be a breach of the Lease.

8.03 Failure to Provide Insurance

Tenant acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Landlord to risks and potentially cause Landlord to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Tenant does not maintain the required insurance and/or does not provide Landlord with the required binders or certificates evidencing the existence of the required insurance, the Minimum Rent shall be automatically increase, without any requirement for notice to Tenant, by an amount equal to 10% of the then existing Minimum Rent or \$100, whichever is greater. The parties agree that such increase in Minimum Rent represents fair and reasonable compensation for the additional risk/cost that Landlord will incur by reason of Tenant's failure to maintain the required insurance. Such increase in Minimum Rent shall in no event constitute a waiver of Tenant's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Tenant of its obligation to maintain the insurance specified in this Lease.

8.04 PLATE GLASS

Tenant shall replace, at its sole cost and expense any and all plate and other glass damaged or broken from any cause whatsoever in and about the Premises. Tenant shall procure and maintain at its own expense, insurance covering all plate and other glass in the leased Premises for and in the name of Tenant and Landlord. Tenant shall deliver certificates of such insurance to Landlord in accordance with Section 8.01 hereof.

8.05 INSURANCE PREMIUM

The Landlord shall pay entire insurance premium on policies which Landlord elects to carry applicable to said Shopping Center (including without limiting the foregoing, Fire, Extended Coverage, Vandalism & Mischief, Boiler, Rental, Sprinkler, Property Damage, and Comprehensive General Liability Insurance). Tenant shall pay to Landlord Tenant's Proportionate Share of such premiums as Additional Rent. Tenant's Proportionate Share shall be the total of such premiums multiplied by a fraction, the numerator of which is the gross leasable area of the Premises and the denominator of which is the gross leasable area of the buildings within the Shopping Center covered by such policies. Tenant's Proportionate Share of such premiums shall be paid on a monthly basis with Fixed Minimum Rent. Copies of insurance premium bills submitted shall be conclusive evidence of the amount of insurance premiums assessed or levied, as well as the items insured. In addition to Tenant's Proportionate Share of premiums herein-above provided, Tenant shall pay for any special hazard premium charges, whenever made, applicable to the Premises of Tenant, as determined by the insuring company or its authorized agent.

Landlord's estimation of Tenant's Proportionate Share of insurance premiums for the first Lease Year is **\$56.00** per month.

ARTICLE XIII

DEFAULT, BANKRUPTCY

13.01 DEFAULT

If Tenant defaults (a) in the payment of Fixed Minimum Rent, Additional Rent, or any other item to be paid by Tenant hereunder, and such default shall not have been cured within three (3) days after written notice thereof by Landlord to Tenant (provided that, notwithstanding the foregoing, Landlord shall only be required to give such 3-day written notice two times within any consecutive 12-month period under this Lease, and thereafter, no written notice or grace period shall apply to any such non-payment by Tenant); or (b) in the performance of any other term, covenant, or condition of this Lease, and such default shall not have been cured within fifteen (15) days after written notice thereof by Landlord to Tenant; Landlord may re-enter and take possession of the Premises and remove all persons and property therefrom (as provided below), and at its option terminate this Lease, and Landlord at its option shall thereupon be entitled to recover from Tenant, in addition to all Fixed Minimum Rent, Additional Rent, and other amounts previously due and unpaid under the terms and conditions of this Lease, Landlord shall be entitled to collect as liquidated damages and not as a penalty the accelerated present value of Fixed Minimum Rent and Additional Rent, including any other sums treated as Additional Rent hereunder, and all other sums provided herein to be paid by Tenant during the remainder of this Lease term (the "Rent Balance"), less the Net Rental Value of the Premises, as hereinafter defined. The term "Net Rental Value" shall mean the fair rental value of the Premises for the remainder of the Lease Term (taking into account relevant factors such as an assessment for future market conditions and the probability of reletting the Premises), reduced to present value, less Landlord's costs, expenses, and attorney's fees in connection with preparation of the Premises for reletting and with the reletting itself; provided, however, the parties agree that in no event shall the Net Rental Value exceed the Rent Balance. If Landlord elects to re-enter and take possession of the Premises without terminating this Lease, Landlord may at its sole option relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease), at such rental or rentals and upon such other terms and conditions as Landlord at its sole discretion may deem advisable with the right to make alterations and repairs to the Premises. Upon any such reletting Landlord shall receive and collect Fixed Minimum Rent therefor, applying the same first to the payment of such expenses as Landlord may have paid, assumed or incurred in recovering possession of the Premises, including costs, expenses and attorneys' fees, and for placing the same in good order and condition, or repairing or altering the same for reletting and all other expenses, commissions and charges paid, assumed and incurred by Landlord in or about reletting the Premises, and then to the fulfillment of the agreements of Tenant. In any event and whether or not the Premises or any part thereof is relet, Tenant shall pay to Landlord all such amounts required to be paid by Tenant up to the time of re-entry by Landlord, and thereafter Tenant shall, if required by Landlord, pay to Landlord until the end of the term of this Lease the equivalent of the amount of all rent and other charges required to be paid by Tenant under the terms hereof, less the avails, if any, of such reletting after payment of the expenses of Landlord as aforesaid, and the same shall be due and payable on the several rent days specified herein. Upon the happening of any of the events set forth in this Article XIII and in addition to any other rights or remedies which Landlord may have, Landlord shall have the immediate right of re-entry and may remove all persons and property from the Premises and such property shall be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby.

13.02 BANKRUPTCY

In the event of a filing during the term of this Lease of any proceedings by or against Tenant for the adjudication of Tenant as a bankrupt or for any other relief under the bankruptcy or insolvency laws of the United States (Title 11 of the United States Bankruptcy Code, the "Bankruptcy Code"), Landlord may exercise any and all rights available to landlords under the Bankruptcy Code. Tenant acknowledges that this Lease is a lease of non-residential real property which will be or has been developed as a shopping center. The Trustee shall have the right to assume Tenant's rights and obligations under this Lease only if the Trustee promptly cures or provides adequate assurance that the Trustee will promptly cure any default under the Lease, compensates or provides adequate assurance that the Trustee will promptly compensate Landlord for any actual pecuniary default under this Lease, and provides adequate assurance of future performance under the Lease. The word "promptly" as used herein shall mean that the cure of defaults and compensation of actual pecuniary loss will occur no later than sixty (60) days after the filing of any motion or application to assume this Lease, and the phrase "actual pecuniary loss" shall include all Rent and Interest and all unpaid Rent and other obligations of Tenant under this Lease, all attorneys' fees and related costs of Landlord in connection with any default of Tenant under the Lease and in connection with Tenant's bankruptcy proceedings. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on or after the date of such assignment. Any such assignee shall, upon demand of Landlord, forthwith execute and deliver to Landlord an instrument, in form and substance acceptable to Landlord, confirming such assumption. Such assignee shall use and operate the Premises in the same "upscale", "first-class" manner as Tenant hereunder. Any and all monies or the considerations payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Agent at the address to which Rent is payable and shall not constitute property of Tenant or the estate of Tenant within the meaning of the Bankruptcy Code. Notwithstanding anything under this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated as rent, shall constitute rent for the purposes of the Bankruptcy Code.

13.03 RIGHTS AND REMEDIES

The various rights and remedies herein granted to Landlord shall be cumulative and in addition to any others Landlord may be entitled to by Law, and the exercise of one or more rights or remedies shall not impair Landlord's right to exercise any other right or remedy.

ARTICLE XIV

ACCESS BY LANDLORD

14.01 RIGHT OF ENTRY.

Landlord and its agents shall have the right to enter the Premises at all reasonable times for the purpose of examining or inspecting the same, showing the same to prospective purchasers or Tenants of the Shopping Center, and making such alterations, repairs, improvements or additions to the Premises or the building of which they are a part as Landlord may deem necessary or desirable. Nothing herein contained, however, shall be deemed or construed to impose upon Landlord any obligations, responsibility or liability whatsoever, for the care, maintenance, or repair of the Premises or the building of which they are a part, or any part thereof, except as otherwise herein specifically provided. During the last three months of the term hereof, Landlord shall have the right to place upon the Premises the usual notices "For Lease" or "For Sale", which notices Tenant shall permit to remain thereon without molestation.

14.02 EXCAVATION.

If any excavation shall be made upon land adjacent to the Premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter upon the Premises for the purpose of doing such work as Landlord shall deem necessary to preserve the walls of the building of which the Premises form a part from injury or damages and to support the same by proper foundations, without any claim for damage or indemnification against Landlord or diminution or abatement of rent.

22.03 HOLDING OVER

Should Tenant, with Landlord's written consent, hold over after the termination of this Lease, Tenant shall become a tenant from month to month only upon each and all the terms herein provided as may be applicable to such month to month tenancy and any such holding over shall not constitute an extension of this Lease. During such holding over Tenant shall pay rent at a rate equal to 150% of the monthly rate provided herein that was in effect immediately prior to the holdover by Tenant.

22.04 PARTIAL INVALIDITY.

Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

22.05 BROKERS

Tenant warrants that it has had no dealings with any real estate broker or agents in connection with the negotiation of this Lease except as listed below, and that it knows of no other real estate broker or agent who is or might be entitled to a commission in connection with this Lease, and Tenant agrees to indemnify and hold Landlord harmless from and against any and all claims for any such commissions, except as follows: **Direct Deal-No Broker Involved**.

22.06 WAIVER

No Waiver by Landlord of any provision of this Lease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act of Tenant, whether or not similar to the act consented to or approved. No act or thing done by Landlord or by Landlord's agents during the term of this Lease shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless in writing and signed by Landlord. No employee of Landlord or of Landlord's agents shall have any power to accept the keys to the Premises prior to the termination of this Lease and the delivery of the keys to any such employee shall not operate as a termination of the lease or surrender of the Premises.

22.07 SUCCESSORS AND ASSIGNS

Except as otherwise provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, executors, administrators, successors and assigns.

22.08 HEADINGS, LANDLORD AND TENANT

The articles and section captions contained in this Lease are for convenience only and do not in any way limit or amplify any term or provision hereof. The terms "Landlord" and "Tenant" as used herein shall include the plural as well as the singular, the neuter shall include the masculine and feminine genders and, if there be more than one tenant, the obligations herein imposed upon Tenant shall be joint and several.

22.09 NO ESTATE BY TENANT

This Lease shall create the relationship Lessor and Lessee between Landlord and Tenant; no estate shall pass out of Landlord; Tenant has only a usufruct not subject to levy and/or sale and not assignable by Tenant except as provided in Article XI hereof.

22.10 ENTIRE AGREEMENT

This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no prior agreement or understanding with regard to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. The submission of this Lease for examination does not constitute an offer to lease, and this Lease becomes effective only upon execution hereof by Landlord and Tenant.

22.11 EXCULPATION

Tenant agrees to look solely to Landlord's interest in the Shopping Center (or the proceeds thereof) for the satisfaction of Tenant's remedies for the collection of a judgment or other judicial process requiring the payment of money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder, or Tenant's use or occupancy of the Premises.

22.12 TENANT DOCUMENTATION REVIEW/EXECUTION

In the event that, at any time during the term of this Lease or any renewal thereof, Tenant requests that Landlord review and/or execute any documentation related to Tenant's use, operation, franchising, occupancy, financing or any other matter relating to the Premises, as a condition thereof, Tenant shall be required to (i) pay to Landlord a review fee equal to \$500.00 to cover Landlord's administrative costs relating to such request, and (ii) pay any and all other actual costs and expenses incurred by Landlord regarding such review and execution, including, without limitation, Landlord's attorney's fees and costs.

22.13 SPECIAL STIPULATIONS

A rider consisting of **FOUR** pages, with sections numbered consecutively **23.00** through **23.10** is attached hereto and made a part hereof. In addition, a lease Special Stipulations is also attached hereto and incorporated herein. In the event of any conflict or inconsistency between the terms and condition of the Special Stipulation Rider, and this base Lease form, the terms and conditions of the Special Stipulations Rider shall control.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Lease as of the day and year first above written.

{SIGNATURES TO FOLLOW}

SPECIAL STIPULATIONS
KEVIN WAKEFIELD
WINN-DIXIE PLAZA SHOPPING CENTER

23.00 POSSESSION OF PREMISES:

Upon the signing of this Lease Agreement, Tenant shall pay to Landlord the amount of Three Thousand Three Hundred Twenty-Eight Dollars 40/100 Cents (\$3,328.40) representing Tenant's first month's rent (July 1, 2021), and a security deposit equal to one month of rent for the Premises. Tenant's next rental payment shall be due and payable on August 1, 2021, and on the first (1st) day of each calendar month thereafter during the Lease term. Landlord hereby grants Tenant early possession of the Premises upon the execution of this Lease Agreement and the paying of the above-mentioned amount to Landlord in order to allow Tenant to make certain Tenant improvements to the Premises, at Tenant's sole cost and expense. As a condition of such early occupancy by Tenant, tenant shall provide Landlord with evidence of general liability insurance coverage as required by Section 8.01 of the Lease showing Landlord as an additional insured, and Tenant shall further obtain, at Tenant's expense, such other insurance as may be reasonably required by Landlord concerning the construction of the improvements. In any event, upon such early occupancy by Tenant, the terms and conditions of this Lease shall be in effect except for Tenant's obligation to pay base monthly rent and additional rent, and including, without limitation, Tenant's indemnity and insurance obligations of the Lease.

23.01 DELIVERY OF PREMISES:

Except as expressly provided herein or in the Lease, Landlord is delivering the Premises to Tenant on an "AS IS, WHERE IS", basis, without warranty or representation. Landlord agrees that the Premises shall be delivered to Tenant (i) with water, electrical and gas service availability (provided that this shall not be construed to mean that Landlord makes any warranty as to the existing capacity of the plumbing, electrical or gas being such that it meets the utility capacity needs of Tenant).

23.02 USE OF PREMISES:

Tenant shall use the Premises for a restaurant (as per the attached menu) and for the on-premise consumption of beer, wine and liquor and for no other purpose. However, in no event will Tenant sell or offer for sale any items that may be considered in direct competition with any of the existing restaurants/stores in the Winn Dixie Plaza Shopping Center.

23.03 LIQUOR LIABILITY:

The Tenant agrees to carry a minimum of one million dollars in liquor liability insurance and further agrees that all of its employees and agents performing services under this agreement shall at all times comply with all federal, state, and local laws pertaining to the sale, service or furnishing of alcoholic beverages. Tenant's employees and agents shall not sell or serve alcoholic beverages to anyone who is under twenty-one years of age or to anyone, regardless of age, who is visibly intoxicated.

Tenant agrees to indemnify and hold Landlord harmless with respect to any and all claims, losses, damages, liabilities, judgements, or settlements, including reasonable attorney's fees, costs, and other expenses incurred by Landlord on account of any liquor related activities conducted by the Tenant or his place of business pursuant to this agreement.

DS
KW

3/1/2021

DS
JR

3/1/2021

23.06 MAINTENANCE, CLEANLINESS AND CARE OF PREMISES:

Tenant agrees that during the term of this Lease, it shall, at its sole cost and expense, maintain the interior and exterior of the Premises in a neat and orderly fashion. The intent of this clause is to insure Landlord that the grease trap(s) and exhaust hood, fans and vents will be serviced, emptied and cleaned at least one time monthly or more often if recommended by the manufacturer. Tenant must have grease guards installed on all hood vents to help filter and collect the excess grease, which is released from the hood system. Tenant will ensure neither the grease nor the device collecting the grease comes in contact with the roof. In addition, Tenant will have a monthly pest control contract with a licensed pest control company for the Premises.

In addition, at Landlord's request, Tenant hereby agrees that Tenant will, at its own cost and expense, remove all debris from and clean the parking lot, sidewalks, alleyways and all other common areas and keep such areas free of all paper, bottles, broken glass, cans, and other litter during the hours of its business operation. In addition, all of the above areas are to be cleaned, by tenant, and all debris removed no later than 8:00 a.m. daily. Tenant will pay for its own dumpster and pressure wash the area around the dumpster, on an as-needed basis, but no less than quarterly.

23.07 GREASE CONTAINMENT:

Tenant shall install and maintain a grease trap meeting all required governmental codes. Tenant shall have a maintenance agreement to maintain and clean said grease trap on a regular basis and shall supply Landlord with all inspection/cleaning reports. In addition Tenant shall install a grease containment system to its roof ventilation system, as outlined above. Tenant shall provide landlord with a copy of the maintenance agreement and service manifests/reports related to the hood vent system maintenance. IF Tenant fails to maintain the above, then Tenant will be in default of the lease agreement and Landlord may at its option, after providing tenant with 14-days written notice, either/or: (i) contract with a company to maintain both the grease trap and grease containment and bill back Tenant for all associated costs and fees, (ii) take action to regain possession of the Premises.

23.08 ROOF OF PREMISES

Tenant will notify Landlord prior to any penetrations made to the roof of the Premises, and will be required to use Landlord's roofing contractor to seal and properly flash all penetrations. Tenant will be responsible for the cost associated with said sealing and flashing of all roof penetrations. In the event Tenant uses a roofer other than the Landlord's roofing contractor, Tenant agrees to pay all charges related to re-certify the roof warranty and the cost of the Landlord's roofer to inspect and adjust the work completed by Tenant. Other than in connection with the Improvements, if applicable, Tenant shall not perform any work on the roof without Landlord's prior written consent.



3/1/2021



3/1/2021

Salty Pint Menu- rough draft

Sandwich names TBD

1. Lean thinly sliced roast beef piled high w/ provolone cheese, onions and pepperoncini served on a sub roll with au jus on the side
2. Lean corned beef, pastrami or turkey with swiss cheese, sauerkraut, thousand island dressing served on pumpernickel or rye bread
3. Turkey, roast beef, cheddarspread, Colby, lettuce and tomato on pumpernickel or rye.
4. Danish Havarti cheese and breast of turkey served on a croissant.
5. Pastrami, corned beef, swiss and cheddar cheese (triple decker) with horseradish served on pumpernickel or rye
6. Roast beef, smoked gouda, ham, bacon and cajon sauce served on pumpernickel
7. Turkey. Corned beef, swiss cheese, lettuce, sauerkraut and bleu cheese dressing on pumpernickel or rye.
8. Hot Pastrami
9. Roast Beef
10. BLT
11. Club

Salads names TBD

1. Chef Salad
2. Caesar salad
3. House salad

Beverages

1. Craft beers
2. Wine
3. Soda fountain
4. Tea sweet and unsweetened

Snacks/Kids

1. Mac and Cheese
2. Pizza (TBD)
3. Cheese Sampler
4. Chicken Wings
5. Applesauce
6. Nachos
7. Pretzels

Dessert

 DS

3/1/2021

 DS

3/1/2021

SIGN CRITERIA
INDIVIDUAL LIGHTED LETTERS ON A RACEWAY

Tenant's sign to be approved by Landlord in writing and provided by Tenant. All signs must adhere to the following sign criteria:

- a) Signs shall contain only the store name. There shall be no listing of merchandise or service, and no slogans;
- b) The maximum letter height contained in any sign shall not exceed twenty (20%) percent of the storefront height. No sign shall exceed in width seventy-five (75%) percent of the storefront width and shall comply with all local municipality codes.
- c) Signs shall be installed within the area leased to Tenant's and shall not project beyond the property line of space leased to Tenants;
- d) There shall be only one sign for each storefront, provided that any Tenant having store frontage on more than on façade may install on sign for each elevation;
- e) Signs must be illuminated. The illumination must be internal. Internal illumination by individual metal channel letters with neon tubing in translucent Plexiglas face, or opaque sign panel with letter cut out, backed up with translucent Plexiglas and illuminated with neon, fluorescent tubing or LED from behind;
- f) The following will not be permitted in any signs; (i) Exposed neon tubing; (ii) Animated components; (iii) Intermittent illumination, (iv) Iridescent painted sign; (v) Luminous sign panel; (vi) Black lighting (inverted metal channel letter containing exposed neon tubing; (vii) Exterior signs mounted on exterior walls or rooftops except for identification signs with tenant façade on main entrances of shops.

DS
LU

3/1/2021

DS
JR

3/1/2021

RULES AND REGULATIONS (continued)

The sidewalk, entrances, passages, quarters or halls shall not be obstructed or encumbered by any Tenant or used for any purpose other than ingress or egress to and from the Premises.

No sales tables, displays, signs or other articles shall be put in front of or affixed to any part of the exterior building, not placed in the loading or parking area without the prior written consent of the Landlord.

Tenant shall not erect or maintain any barricade or scaffolding which may obscure the signs or front entrances or any other tenant in the building or tend to interfere with any such other Tenant's business.

Tenant shall not create or maintain, nor allow others to create or maintain, any nuisances, including without limiting the foregoing general language, loud noises, sound effects, bright lights, changing, flashing, flickering or lighting devices or similar devices, smoke or dust, the effect of which will be visible from the exterior of the Premises.

Landlord reserves the right to waive any rule in any particular instance or as to any particular person or occurrence and further, Landlord reserves the right to amend or rescind any of these rules or make, amend and rescind reasonable new rules to the extent Landlord, in its sole judgment, deems suitable for the safety, care and cleanliness of the Center and the conduct of high standards of merchandising and services therein. Tenant agrees to conform to such new or amended rules upon receiving written notice of the same.



3/1/2021



3/1/2021

	Salty Pint				
		Rent	Discount %		
1	7/1/2021	1,300.00	30%	390.00	390.00
2	8/1/2021	1,300.00	30%	390.00	780.00
3	9/1/2021	1,300.00	30%	390.00	1,170.00
4	10/1/2021	1,300.00	30%	390.00	1,560.00
5	11/1/2021	1,300.00	30%	390.00	1,950.00
6	12/1/2021	1,300.00	30%	390.00	2,340.00
7	1/1/2022	1,300.00	30%	390.00	2,730.00
8	2/1/2022	1,300.00	30%	390.00	3,120.00
9	3/1/2022	1,300.00	30%	390.00	3,510.00
10	4/1/2022	1,300.00	30%	390.00	3,900.00
11	5/1/2022	1,300.00	30%	390.00	4,290.00
12	6/1/2022	1,300.00	30%	390.00	4,680.00
13	7/1/2022	1,339.00	20%	267.80	4,947.80
14	8/1/2022	1,339.00	20%	267.80	5,215.60
15	9/1/2022	1,339.00	20%	267.80	5,483.40
16	10/1/2022	1,339.00	20%	267.80	5,751.20
17	11/1/2022	1,339.00	20%	267.80	6,019.00
18	12/1/2022	1,339.00	20%	267.80	6,286.80
19	1/1/2023	1,339.00	20%	267.80	6,554.60
20	2/1/2023	1,339.00	20%	267.80	6,822.40
21	3/1/2023	1,339.00	20%	267.80	7,090.20
22	4/1/2023	1,339.00	20%	267.80	7,358.00
23	5/1/2023	1,339.00	20%	267.80	7,625.80
24	6/1/2023	1,339.00	20%	267.80	7,893.60
25	7/1/2023	1,379.00	10%	137.90	8,031.50
26	8/1/2023	1,379.00	10%	137.90	8,169.40
27	9/1/2023	1,379.00	10%	137.90	8,307.30
28	10/1/2023	1,379.00	10%	137.90	8,445.20
29	11/1/2023	1,379.00	10%	137.90	8,583.10
30	12/1/2023	1,379.00	10%	137.90	8,721.00
31	1/1/2024	1,379.00	10%	137.90	8,858.90
32	2/1/2024	1,379.00	10%	137.90	8,996.80
33	3/1/2024	1,379.00	10%	137.90	9,134.70
34	4/1/2024	1,379.00	10%	137.90	9,272.60
35	5/1/2024	1,379.00	10%	137.90	9,410.50
36	6/1/2024	1,379.00	10%	137.90	9,548.40
37	7/1/2024	1,379.00	10%	137.90	9,686.30
38	Total			9,686.30	



**CITY COUNCIL AGENDA MEMORANDUM
JUNE 22, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council

FROM: Becky Vose, City Attorney

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Discussion regarding Mayor Miller participating in a joint task force for multi-city events

SYNOPSIS:

The Mayor would like to participate in a joint task force to discuss multi-city events such as the recent truck event that took place last weekend. Ordinance 2020-08 currently prohibits her from doing so without a vote of the current council.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: None