



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COMMISSION MEETING MAY 23, 2023

**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 Commission Meeting Hall. Any such violation shall subject the offender, upon conviction thereof, to a fine and/or imprisonment as prescribed by Section 1-8.

- 1. CALL TO ORDER BY MAYOR**
- 2. ROLL CALL BY CITY CLERK**
- 3. PRAYER**
- 4. PLEDGE OF ALLEGIANCE**
- 5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:**
 - A. Proclamation for Public Works Week
 - B. Investment Presentation by JPMorgan Chase
- 6. APPROVAL OF MINUTES**
 - A. City Commission Minutes April 25, 2023
- 7. CONSENT AGENDA:**

- A. Community Services Department Monthly Report - April 2023
- B. Executive Summary Report April 2023
- C. Public Safety April Monthly report
- D. Approval for Mayor to travel for Accreditation Award
- E. Approval of the City of Port Orange - Universal Engineering Sciences, Inc. Piggyback Contract for Building Inspector and Plans Examiner Services
- F. Approval of the Volusia County - LaTour Enerprizes, Inc. d/b/a Economy Electric Company, Inc. Piggyback Contract For Electrical Services
- G. Access Agreement & Construction License For Seawall Construction: Opus Condominium, 2071 S. Atlantic Avenue
- H. Florida Local Government Cybersecurity Grant

8. OLD BUSINESS:

9. NEW BUSINESS:

- A. Ordinance 2023-03: Tour Service Conditional Use and Live/Work Facilities.
- B. Non-conforming Sign Removal Incentive Grant Application 12023014: 3060 S. Atlantic Avenue - Christina's Plaza
- C. Economic Development Lease Subsidy Grant Application - Bank Heist Experience, LLC
- D. Economic Development Lease Subsidy Grant Application - Riley's Coney House
- E. Sea Wall presentation by Commissioner Bryan

10. REPORTS OF THE CITY ATTORNEY:

11. REPORTS OF THE CITY MANAGER:

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 COMMISSION 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 COMMISSION MEETING
April 25, 2023
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Chris Conomos, Commissioner Richard Bryan, Vice Mayor Michael Politis

Staff: City Manager Kurt Swartzlander, City Clerk Cheri Schwab, City Attorney Paul Waters, Community Services Director Stewart Cruz, Economic Development and Public Affairs Director Nancy Maddox, and Public Safety Director Michael Fowler.

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 Commission Minutes April 11, 2023

COMMISSIONER MEL LINDAUER moved, seconded by VICE MAYOR MICHAEL POLITIS to Approve the City Commission Minutes of April 11, 2023.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

7. CONSENT AGENDA:

A. Public Safety Monthly Report

B. Executive Finance Report for February 2023

C. Executive Finance Report for March 2023

D. Community Services Department Monthly Report - March 2023

E. Access Agreement & Construction License For Seawall Construction: Marbella Condominium, 3343 S. Atlantic Avenue

COMMISSIONER CHRIS CONOMOS moved, seconded by COMMISSIONER MEL LINDAUER to Approve the consent agenda.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

8. REPORTS OF THE CITY ATTORNEY:

The City Attorney had nothing new to report for the agenda.

9. REPORTS OF THE CITY MANAGER:

The City Manager reviewed the number of sea wall permits issued by the DEP. The number has increased in the past few weeks. Along with that, the city has waived 37 permit applications for seawalls in the amount of \$87,100. The DEP recently announced that work can continue on the beach after May 1st providing a permit has been applied for and no turtle nest is near the construction zone. The non-conforming sign extension ended on April 10th. There are currently 20 remaining signs, down from an original 130 non-conforming signs. Ten property owners are in the process of upgrading their signs. The Code Enforcement department has reached out to the remaining property owners. Finally, CM Swartzlander reported that attendance was down on Saturdays at the community center. He proposed closing the building during the months of May through September for all classes. If a room is rented for an event, staff would be there to work.

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER RICHARD BRYAN to Approve closing the community center on Saturdays from May through September.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

10. OLD BUSINESS:

A. Ordinance 2023-02: Floodplain Management Regulations Update

Attorney Waters read the ordinance by title only. Community Services Director Stewart Cruz explained that the updates to the code would allow the residents to continue to receive a discount on flood insurance premiums when applicable. Staff recommended approval.

COMMISSIONER RICHARD BRYAN moved, seconded by COMMISSIONER MEL LINDAUER to Adopt Ordinance 2023-02 on second reading.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

11. NEW BUSINESS:

12. COUNCIL COMMENTS:

Mayor Miller reminded everyone of the upcoming concert and food truck event on Friday evening. Tickets are on sale for the Casino Night on May 13th. She announced that the visioning session planned for this spring would be postponed until next year due to the heavy staff load from the hurricanes. The City Manager's evaluation was handed out to the commission. It is due back by June 1st. The Mayor would like to add a discussion item for the next agenda to discuss expectations when completing the form. It had come to the attention of the commission that Comm. Bryan had attended the recent County Council Meeting last week and spoke under Audience Comments. He was introduced as Comm. Bryan from Daytona Beach Shores and spoke on increasing the number of trapbags being used for a seawall and a potential study. Comm. Bryan requested that \$10,000 be spent by the county on this study. The remaining commission were concerned because it seemed like Comm. Bryan was there representing the city. Comm. Bryan denied that he presented himself as a city commissioner. Vice Mayor Politis explained that Richard had signed in as a City Commissioner, wore his nametag and was introduced as a city commissioner. Furthermore, Richard never once stated this is my opinion. The Vice Mayor referenced Ordinance 2020-08 that was adopted specifically for this reason. Comm. Lindauer cautioned Richard explaining that he had done this same action in the past and was reprimanded for it. Comm. Bryan stated that he had sent an email to the County Council prior to him speaking, so they were aware his remarks were only his opinion. He intended to clarify at the end, but he had run out of time. Vice Mayor Politis recommended that Comm. Bryan write a letter to the County Council to apologize if his statements were interpreted as views of the city. The letter should state that he spoke as a private citizen and all statements made were his. He did not have authority or jurisdiction to speak on behalf of the City Commission. Comm. Bryan advised that a new seawall approach was introduced this past week that might be beneficial to some property owners who do not have a permit yet. He hoped to meet with a few property owners to inform them. Mayor Miller instructed Comm. Bryan to bring back his research to the commission before he engages with the community.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Joe Monaco inquired about the condition of Pappas Plaza since the hurricanes. Community Services Director Stewart Cruz explained that the property was currently for sale. The owner has until the end of the month to update city staff regarding code enforcement issues.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

Discussion regarding the city manager's evaluation and the rating process.

15. ADJOURNMENT:

The meeting ended at 6:40 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
KURT D. SWARTZLANDER**

ATTEST:

CITY CLERK, CHERI SCHWAB



**CITY COMMISSION AGENDA MEMORANDUM
MAY 23, 2023 AGENDA**

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Community Services Department Monthly Report - April 2023

SYNOPSIS:

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT:

1. CSD Planning & Building Divisions Montly Report -March 2023
2. CSD Public Works & Sewer Divisions Montly Report -March 2023

City of Daytona Beach Shores

Planning & Building Division Statistics

Monthly Report – April, 2023

Planning Division

Site Plans - Submittals and Approvals:

Submitted this Month: 0
 Submitted this Fiscal Year: 2
 Approved by Staff this Month: 0
 Approved by Staff this Fiscal Year: 1
 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
Wigle Residence	210 Florida Shores Boulevard	4/3	Replace 9 windows	\$11,733.00	\$129.10
Jones Residence	4 Oceans West Boulevard, Unit 602C	4/3	Replace windows and doors	\$26,383.00	\$221.06
Tropical Manor	2237 South Atlantic Avenue	4/3	Replace drywall, 3 tub to shower conversions in 3 units	\$240,000.00	\$1,196.18
Wendel Residence	252 Florida Shores Boulevard	4/3	Change out HVAC split system	\$14,040.00	\$136.90
Red Lobster	3162 South Atlantic Avenue	4/4	Install monument sign	\$24,000.00	\$69.25
Crabby Joe's	3701 South Atlantic Avenue	4/4	Install temporary power pole	\$13,750.00	\$69.25
Porto Residence	2545 South Atlantic Avenue, Unit 1508	4/5	New cabinets and tops, vanities, and showers	\$44,000.00	\$317.96
La Vista Del Sol	3756 South Atlantic Avenue	4/5	Remove metal on mansards	\$124,000.00	\$732.47
Robson Residence	2727 South Atlantic Avenue	4/5	New replacement seawall design	\$75,993.00	12.20
Hemlick Residence	2823 South Atlantic Avenue	4/5	New replacement seawall design	\$200,293.00	\$25.37
CVS	3422 South Atlantic Avenue	4/5	Replace rooftop package unit	\$20,500.00	\$176.81

PROJECT	WORK ADDRESS	DATE	WORK DESCRIPTION	VALUE	REVENUE
Baranski Residence	3757 South Atlantic Avenue, Unit 802	4/6	Replace 2 sliding glass doors	\$15,675.00	\$161.50
St Maarten Condo	2403 South Atlantic Avenue	4/6	Reroof tile dormer areas	\$95,000.00	\$608.08
Gjessing Residence	3718 Cardinal Boulevard	4/6	Install seawall	\$100,000.00	\$15.53
Kenton Residence	3234 La Paloma Avenue	4/6	Install soffit, change out patio door, install drywall	\$38,504.00	\$289.36
Shores Club Condo	3815 South Atlantic Avenue	4/6	Expand existing fire alarm system	\$212,600.00	\$1,000.02
Blue Mist Hotel	3064 South Atlantic Avenue	4/10	Repair damage to building, drywall, windows, doors	\$146,000.00	\$960.41
Blue Mist Hotel	3064 South Atlantic Avenue	4/10	Partial remodeling and repipe	\$76,000.00	\$243.34
Blue Mist Hotel	3064 South Atlantic Avenue	4/10	Partial remodeling and rewire	\$37,000.00	\$88.40
McIntire Residence	3115 South Atlantic Avenue, Unit 1105	4/10	Replace 2 windows and 2 sliding glass doors	\$15,870.00	\$161.50
Hitchcock Residence	4 Oceans West Boulevard, Unit 706A	4/10	Replace 2 sliding glass doors	\$14,675.00	\$154.75
Schafer Residence	3013 South Atlantic Avenue, Unit 1006	4/10	Replace 2 windows and 2 sliding glass doors	\$21,614.00	\$193.73
LM Daytona LLC Property	3343 South Atlantic Avenue, Unit 502	4/10	Replace 11 windows in 7 openings	\$16,713.00	\$166.82
Walker Residence	2825 South Atlantic Avenue	4/10	New replacement seawall design	\$162,907.00	\$21.67
Reny Residence	2745 South Atlantic Avenue	4/10	Install rock revetment, sand and plants, dune walkover	\$45,000.00	\$7.89
Kearly Residence	2833 South Atlantic Avenue	4/10	New replacement seawall design	\$90,246.00	\$14.27
Biggins	2324 South Atlantic Avenue	4/11	Interior remodel	\$55,655.00	\$386.12
Jeffers Residence	2555 South Atlantic Avenue, Unit 201	4/11	Bathroom remodel, relocate shower, remove closets	\$14,800.00	\$154.75
Biggins	2324 South Atlantic Avenue	4/11	Replace lighting, re-wire bar area, add security lights	\$15,000.00	\$47.50
ABC Liquors Inc	3332 South Atlantic Avenue	4/12	Re-roof building	\$34,200.00	\$6.50
City of Daytona Beach Shores	3050 South Atlantic Avenue	4/12	Re-roof Public Safety Annex and Garage	\$270,524.00	\$0.00
Burnham Residence	2545 South Atlantic Avenue, Unit 1601	4/12	Tub to shower conversion, re-tile second shower	\$11,500.00	\$129.10
Bella Vista Condo	2515 South Atlantic Avenue	4/13	Reconstruct damaged seawall	\$813,403.00	\$72.18
Palma Bella Condo	3245 South Atlantic Avenue	4/13	Replace (1) 5 AON package unit	\$129,000.00	\$939.41
Tenney Residence	3425 South Atlantic Avenue, Unit 1906	4/13	Install 9 roll down hurricane shutters	\$30,680.00	\$243.91
Marlin Residence	2987 South Atlantic Avenue, Unit 601	4/13	Replace windows and sliding glass doors	\$43,375.00	\$317.77

PROJECT	WORK ADDRESS	DATE	WORK DESCRIPTION	VALUE	REVENUE
Connery Residence	2937 South Atlantic Avenue, Unit 1007	4/13	Tub to shower conversion, build closet	\$40,000.00	\$295.20
Island Liquors	2400 South Atlantic Avenue	4/13	Install new asphalt driveway	\$23,500.00	\$204.49
Carmichael Residence	2815 South Atlantic Avenue	4/14	Rock revetment	\$78,854.00	\$12.61
Whitehurst Residence	3043 South Atlantic Avenue, Unit 2005	4/14	Remodel kitchen and 2 bathrooms	\$28,000.00	\$226.94
Danbury Breakers	3747 South Atlantic Avenue	4/14	Modified bitumen re roof	\$271,779.00	\$1,324.03
Perry's Ocean Edge Resort	2209 South Atlantic Avenue	4/17	Electric for hotel lobby renovations	\$17,500.00	\$47.50
Gabriel Residence	3013 South Atlantic Avenue, Unit 605	4/17	Replace windows and sliding glass doors	\$40,310.00	\$300.67
Breeden Residence	4 Oceans West Boulevard, Unit 301	4/17	Replace sliding glass door	\$15,750.00	\$161.50
Grand Coquina	3333 South Atlantic Avenue	4/17	Replace glass in lobby areas, floors 1-3	\$125,000.00	\$736.46
Fantasy Island Resort	3205 South Atlantic Avenue	4/17	Replace underground gas piping	\$19,667.00	\$69.25
Westminster by the Sea Church	3221 South Peninsula Drive	4/17	Reroof flat roof over kitchen	\$26,200.00	\$221.00
Oceans Eight	2937 South Atlantic Avenue	4/17	Replace awning damaged by hurricane	\$21,076.00	\$4.73
Williams Residence	3831 South Atlantic Avenue, Unit 904	4/18	Remodel kitchen and 3 bathrooms, new showers	\$72,000.00	\$477.24
Crisler Residence	96 Broad Avenue	4/18	Reroof modified to modified	\$13,500.00	\$146.20
Peninsula Condo	2545 South Atlantic Avenue	4/18	Reconstruct seawall	\$746,600.00	\$68.42
Peninsula Condo	2545 South Atlantic Avenue	4/18	Reconstruct dune walkover	\$25,000.00	\$209.87
Agatep Residence	3013 South Atlantic Avenue, Unit 1107	4/18	Replace drywall, install new kitchen cabinets	\$15,500.00	\$161.50
Oceans Eight Condo	2937 South Atlantic Avenue	4/18	Structural repairs	\$15,000.00	\$154.75
Nakhla Property	2560 South Atlantic Avenue	4/18	Change out 5 ton package unit	\$13,170.00	\$130.30
Oceans Atrium	3023 South Atlantic Avenue	4/18	Repair beach access stairs	\$61,950.00	\$420.34
Sunglow Resort	3647 South Atlantic Avenue	4/18	Construct new seawall	\$330,000.00	\$37.95
Curran Shores South	3641 South Atlantic Avenue	4/18	Construct new seawall	\$430,000.00	\$47.70
Tropic Shores Condo	3111 South Atlantic Avenue	4/18	Construct new seawall	\$829,760.00	\$73.09
Fantasy Island Resort	3205 South Atlantic Avenue	4/18	Construct new seawall	\$466,350.00	\$51.30
Mayfield Residence	2 Oceans West Boulevard, Unit 1501	4/19	Install roll down hurricane shutters	\$17,098.00	\$172.20
Kopley Residence	2 Oceans West Boulevard, Unit 1708	4/19	Install 3 motorized hurricane shutters	\$14,632.00	\$154.75

PROJECT	WORK ADDRESS	DATE	WORK DESCRIPTION	VALUE	REVENUE
Lorenzo Residence	3 Oceans West Boulevard, Unit 3B2	4/19	Replace cabinets and tops in kitchen and 2 bathrooms	\$20,200.00	\$188.34
Bella Vista Condo	2515 South Atlantic Avenue	4/19	Renovate pool, spa, and deck	\$251,800.00	\$1,244.08
Bergeron Residence	2811 South Atlantic Avenue	4/19	Rock revetment	\$68,554.00	\$11.22
Alamo Residence	2801 South Atlantic Avenue	4/19	Rock revetment	\$45,000.00	\$7.89
Traub Residence	3703 South Atlantic Avenue, Unit 1103	4/20	Remodel kitchen and bathrooms, remove fireplace	\$86,926.00	\$562.56
Grand Coquina	3333 South Atlantic Avenue	4/20	Replace picture windows in 8 units	\$55,210.00	\$385.97
Dimucci Twin Towers	3315 South Atlantic Avenue	4/20	Repairs to pool access gates, new walkway pavers	\$15,000.00	\$154.75
Raasch Residence	3043 South Atlantic Avenue, Unit 903	4/20	Install 5 motorized hurricane shutters	\$21,599.00	\$193.73
Wright Residence	3043 South Atlantic Avenue, Unit 205	4/20	Install 4 motorized hurricane shutters	\$15,347.00	\$161.50
Feeney Residence	3043 South Atlantic Avenue, Unit 904	4/20	Install 3 motorized hurricane shutters	\$13,783.00	\$146.20
Feeney Residence	3043 South Atlantic Avenue, Unit 1504	4/20	Install 3 motorized hurricane shutters	\$13,783.00	\$146.20
Jenkins Residence	3124 Esperanza Avenue	4/20	Complete re-roof	\$14,000.00	\$146.20
Congo River Golf	2100 South Atlantic Avenue	4/20	Install monument sign	\$25,432.00	\$69.39
Blaustein Residence	1925 South Atlantic Avenue, Unit 704	4/21	Replace straight cool system	\$11,025.00	\$117.10
Smith Residence	3123 South Atlantic Avenue	4/21	Re-roof shingle roof	\$13,050.00	\$146.20
Flamingo Inn	2011 South Atlantic Avenue	4/21	Staircase and backfill	\$50,000.00	\$352.09
Flamingo Inn	2011 South Atlantic Avenue	4/21	Construct seawall	\$200,000.00	\$25.28
Baldwin Residence	2947 South Atlantic Avenue, Unit 801	4/24	Remodel kitchen and one bath	\$14,500.00	\$154.75
City of Daytona Beach Shores	3703 South Atlantic Avenue	4/24	Build stairs to beach	\$24,000.00	\$0.00
Aruba Condo	3721 South Atlantic Avenue	4/24	Install permanent seawall	\$1,876,025.00	\$131.97
Mulligan's Lagoon	2504 South Atlantic Avenue	4/25	Install construction fence and gate	\$13,000.00	\$65.25
Oceans Seven Condo	2947 South Atlantic Avenue	4/25	Replace parking grille	\$20,189.00	\$188.34
LaSanta Residence	3145 South Atlantic Avenue, Unit 1003	4/25	Change out HVAC system	\$11,938.00	\$117.10
Sanibel Condo	3799 South Atlantic Avenue	4/25	Permanent replacement of seawall	\$808,100.00	\$71.90
Reid Residence	2755 South Atlantic Avenue	4/25	Replace coquina rock on eastside of building	\$48,000.00	\$8.31
Lee Residence	3110 Brookfair Crescent	4/25	Reroof modified bitumen roof	\$11,000.00	\$120.55

PROJECT	WORK ADDRESS	DATE	WORK DESCRIPTION	VALUE	REVENUE
White Surf Condo	3555 South Atlantic Avenue	4/25	Replace 2 A/C systems	\$14,946.00	\$136.90
Sand Dollar Condo	3115 South Atlantic Avenue	4/26	Building restoration, waterproofing, and framing	\$1,295,000.00	\$4,068.99
Simon Residence	2731 South Atlantic Avenue	4/26	Rock revetment	\$80,626.00	\$12.89
Grand Coquina	3333 South Atlantic Avenue	4/26	Install steel seawall, cap, and backfill	\$899,663.00	\$77.02
Beach Club Condo	3727 South Atlantic Avenue	4/26	Seawall repair and structural enhancements	\$309,624.00	\$36.00
Mike's Gift Shop	3500 South Atlantic Avenue	4/27	Change out 5 ton package unit on roof	\$10,500.00	\$110.50
Robson Residence	2727 South Atlantic Avenue	4/27	Replace beach walkover and stairs	\$20,000.00	\$182.96
Dixon Residence	3555 South Atlantic Avenue, Unit 304	4/27	Change out 2,5 ton HVAC system	\$12,057.00	\$123.70
City of Daytona Beach Shores	3737 South Atlantic Avenue	4/27	Build stairs to beach	\$18,500.00	\$0.00
Dollar General	2112 South Atlantic Avenue	4/27	Remove 42 shrubs and replace with 253 new ones	\$57,000.00	\$73.50
Tuscany Shores	2901 South Atlantic Avenue	4/28	Misc. concrete repairs	\$10,000.00	\$112.00
Waller Residence	3333 South Atlantic Avenue, Unit 605	4/28	Remodel master bathroom, new shower, vanity, tub	\$30,000.00	\$238.31
Vagovic Residence	2753 South Atlantic Avenue	4/28	Rock revetment	\$50,851.00	\$8.73
Danis Residence	2837 South Atlantic Avenue	4/28	Rock revetment	\$75,000.00	\$12.06
Roberts Residence	2741 South Atlantic Avenue	4/28	Rock revetment	\$78,262.00	\$12.61
Smith Residence	2725 South Atlantic Avenue	4/28	Rock revetment	\$43,982.00	\$7.76
Marciante Residence	2721 South Atlantic Avenue	4/28	Rock revetment	\$91,684.00	\$14.41
TOTALS	WORK ADDRESS	DATE	WORK DESCRIPTION	\$13,903,985.00	\$25,526.26

Building Division Revenue by Permit Category:

PERMIT TYPE	APRIL 2023	FISCAL YEAR-TO-DATE 2022 TO 2023	APRIL 2022	LAST FISCAL YEAR-TO-DATE 2021 TO 2022
BUILDING	\$21,098.46	\$177,485.19	\$16,613.20	\$81,282.98
ROOF	\$2,949.20	\$29,994.10	\$744.46	\$5,443.94
DEMOLITION	\$0.00	\$545.30	\$340.00	\$1,655.60
ELECTRICAL	\$2,793.90	\$16,349.16	\$3,206.15	\$15,500.26
MECHANICAL	\$5,333.22	\$20,300.45	\$3,245.20	\$23,166.51
PLUMBING	\$3,423.34	\$17,686.19	\$3,321.45	\$19,925.51
SIGN	\$316.89	\$2,441.68	\$268.50	\$1,740.06

POLITICAL SIGN BONDS	\$0.00	\$0.00	\$0.00	\$0.00
STORMWATER MANAGEMENT	\$0.00	\$0.00	\$0.00	\$0.00
MISCELLANEOUS	\$755.00	\$1,353.25	\$165.20	\$641.35
DEVELOPMENT FEES	\$25.00	\$5,646.52	\$245.00	\$12,818.30
PROMOTIONAL ACTIVITIES	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$36,695.01	\$271,801.84	\$28,149.21	\$162,174.51

Building Division Activities:

ACTIVITY	APRIL 2023	FISCAL YEAR-TO-DATE 2022 TO 2023	APRIL 2022	LAST FISCAL YEAR-TO-DATE 2021 TO 2022
INSPECTIONS	309	1838	287	2030
FINAL CERTIFICATES OF OCCUPANCY ISSUED	1	2	25	27
TEMPORARY CERTIFICATES OF OCCUPANCY ISSUED	0	0	0	0
FINAL INSPECTIONS	142	916	196	1346
FAILED INSPECTIONS	16	99	18	115

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

Projects Begun Current Fiscal Year-to-Date – 2022 to Present: \$62,885,022.00

Projects Begun Last Fiscal Year – 2021 to 2022: \$34,841,244.00.

Projects Begun Two Fiscal Years Ago – 2020 to 2021: \$64,300,811.00.

MONTHLY REPORT - APRIL 2023

Facilities, Parks & Streets, Sewer Divisions

FACILITIES MAINTENANCE DIVISION:

Currently two full time positions.

Normal monthly duties:

This division is responsible for the upkeep and maintenance of city buildings. The facilities staff assesses problems reported with the buildings and repairs as needed and within the staff's capabilities. The facilities staff has an HVAC certification therefore related repairs can be performed inhouse. Staff replaces light bulbs, cleans window exterior, paints and performs any other general maintenance needed with the city buildings and city owned properties.

Additionally, this month:

- City Hall: Worked on server room A/C, unclogged an A/C drain
- Public Safety: Replaced the storage shed ramp, met with contractors for light changes and garage door fixes
- Community Center: Worked on A/C problems, continued work with contractor for balcony repairs

PARKS / STREETS DIVISION:

This division typically has eleven maintenance positions, one electrician position and one position that routinely assists the electrician.

Normal monthly duties:

This division performs maintenance, upkeep and general appearance of all the parks, streets, sidewalks and medians daily, including, but not limited to, mowing, changing out lights, restocking supplies, replacing

plants as needed, replacing or repairing street signs, checking and clearing storm drains, as well as any other related issue that may arise in the City. Per the City-County Park Maintenance Agreement, this division also is responsible for the cleaning and upkeep of the new county parks. Although there are two units (parks & streets) within the division, all personnel share in the normal monthly duties.

Additionally, this month:

- Moved storage shed for Public Safety
- Continued working on the new Veterans Park area
- Fixed wind screens at RQ
- Set up and tear down for free concert and food truck event

Electrician:

- Unfortunately the electrician left employment with the city before submitting his monthly report. This position is currently open.

SEWER DIVISION:

Currently three positions. This division is short one employee.

Normal monthly duties:

This division maintains and inspect all the sewer stations daily, performs all the general maintenance of the sewer stations, generators and the station properties, including, but not limited to, mowing and general outside maintenance, cleaning pump areas, wet wells and floats. The division also maintains and inspects city manholes, delivers past due sewer bill notices for finance every month, perform cooling tower readings, and quarterly grease trap inspections.

Additionally, this month:

- Sewer line locates – 46
- Fixed exhaust fan at Station 2
- Fixed A/C at station 6
- Handled sewer backups on Glen Myra, 3800 block of SR A1A, 1900 block of SR A1A
- Located a covered manhole in the 3700 block of Cardinal Blvd
- Formed and ran electrical conduit for the generator slab at station 11
- Repaired an 8" pneumatic sewer plug



**CITY COMMISSION AGENDA MEMORANDUM
MAY 23, 2023 AGENDA**

TO: Honorable Mayor and Members of the City Commission
FROM: Lory Irwin, Finance Director
PREPARED BY: Lory Irwin, Finance Director
SUBJECT: Executive Summary Report April 2023

SYNOPSIS:

Report of the April 2023 fiscal year-to-date city-wide financials. The financial reports show where the city is financially in regard to the commission-approved budget.

FISCAL IMPACT STATEMENT:

78% of the General Fund budgeted revenue has been received as of the end of April 2023. The Utility (Sewer) Fund has received 51% of its budgeted revenues at the end of April. Expenditures have increased 9% over last year and are at 49% of budget.

BACKGROUND:

Total commission approved General Fund budget is \$15,845,300; Sewer Fund budget is \$3,702,600.

LEGAL REVIEW:

N/A

RECOMMENDATION:

N/A

SUGGESTED MOTION:

N/A

ATTACHMENT: 1. April 2023 Monthly Executive Summary Report

EXECUTIVE SUMMARY
Fiscal Year-To-Date Financial Report
Month Ending April, 2023

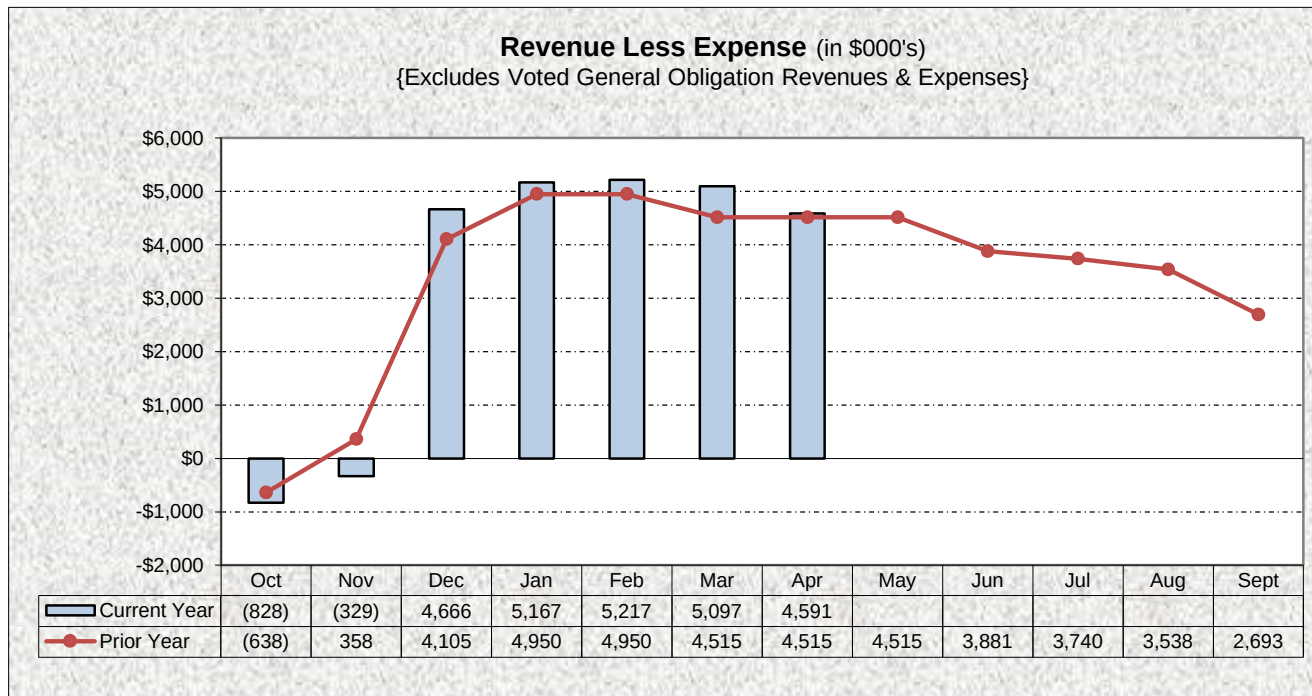
CURRENT YEAR OPERATIONAL PERFORMANCE				
Fund or Fund Segment	YTD Revenue	YTD Expense	Revenue Less Expense	Margin %
General Fund Operations	\$12,414,548	\$7,831,915	\$4,582,633	37%
General Obligation Debt Service	\$88	\$0	\$88	
General Obligation Construction	\$0	\$0	\$0	
General Fund Sub-Total	\$12,414,636	\$7,831,915	\$4,582,721	37%
Sewer Fund Operations	\$1,896,717	\$1,896,115	\$602	0%
Sewer Fund Restricted Impact Fee	\$10,950	\$2,868	\$8,082	74%
Sewer Fund Sub-Total	\$1,907,667	\$1,898,983	\$8,684	0%
TOTAL ALL FUNDS FISCAL YTD	\$14,322,303	\$9,730,898	\$4,591,405	32%

CASH / INVESTMENT POSITIONS PERFORMANCE				
	Current Month Current Year	Current Month Prior Year	12-Month Change	Percent Change
General Fund (excl. G.O. Funds)	\$24,585,735	\$22,070,314	\$2,515,421	11%
Sewer Fund	\$11,067,258	\$9,620,705	\$1,446,553	15%
Sub-Total Operating Funds	\$35,652,992	\$31,691,019	\$3,961,973	13%
Gen. Obligation [GO] Construction & Debt	\$0	\$0	\$0	0%
TOTAL ALL FUNDS	\$35,652,992	\$31,691,019	\$3,961,973	13%

PROJECTED FISCAL YEAR END (FYE) CASH FLOW FROM NORMAL OPERATIONS**			
	General Fund	Sewer Fund	Total
Current Cash vs. Prior Year Ending Cash	\$4,750,623	\$134,042	
Add Back for Current Year CS Construction Expense	N/A	N/A	
Historical Mean Projected Remaining Cash Flow	(\$3,461,028)	\$153,628	
PROJECTED FYE NORMALIZED CASH FLOW	\$1,289,595	\$287,670	\$1,577,265

All Funds Budget Performance Summary Report (in 000's)

NON-G.O. FUNDS	April, 2023		VERSUS PRIOR YEAR TO DATE		
	Current Budget	Current YTD Actual	Prior YTD Actual	Vs. Prior Yr. Favorable / (Unfavorable)	% vs. Prior Year
Revenues ('000s)					
General Fund	\$15,845	\$12,415	\$10,615	\$1,800	17%
Utility Fund	\$3,703	\$1,908	\$1,366	\$542	40%
Total Revenues & Appropriations	\$19,548	\$14,322	\$11,981	\$2,341	20%
Expenses ('000s)					
General Fund Less Capital	\$14,387	\$7,389	\$5,971	(\$1,418)	-24%
General Fund Capital	\$1,458	\$443	\$190	(\$253)	-133%
Utility Fund	\$3,703	\$1,899	\$1,305	(\$594)	-46%
Total Expenses & Appropriations	\$19,548	\$9,731	\$7,466	(\$2,265)	-30%
Revenue Less Expense ('000s)					
General Fund	\$0	\$4,583	\$4,454	\$129	
Utility Fund	\$0	\$9	\$61	(\$52)	
Revenue Less Expense	\$0	\$4,591	\$4,515	\$76	



General Fund Detail Budget Report

	April, 2023		VERSUS PRIOR YEAR TO DATE		
	Current Budget	Current YTD Actual	Prior YTD Actual	Vs. Prior Yr. Favorable / (Unfavorable)	% vs. Prior Year
Revenues/Sources					
Ad-Valorem Taxes	8,885,200	8,535,513	8,058,477	477,036	5.92%
Business Taxes	101,900	95,806	100,313	(4,507)	-4.49%
Utility Taxes	1,041,200	527,211	493,307	33,904	6.87%
Permits & Franchise Fees	893,200	557,938	476,762	81,176	17.03%
Intergovernmental	747,600	337,846	296,816	41,029	13.82%
Donations	0	0	0	0	
Charges for Services	1,838,000	1,173,168	1,163,106	10,062	0.87%
Fines & Forfeitures	97,800	45,540	52,602	(7,062)	-13.43%
Non-G.O. Interest	231,300	239,258	8,535	230,723	2703.29%
Unrealized Investment G/(L)	0	0	0	0	
Miscellaneous & Fixed Asset Sales	87,900	331,767	391,197	(59,430)	-15.19%
Internal Services	978,000	570,500	499,042	71,458	14.32%
Non G.O. Transfer In-Fund Balance	943,200	0	0	0	
Non-G.O. Gen. Fund Revenue	\$15,845,300	\$12,414,548	\$11,540,157	\$874,391	7.58%

Operating Expenditures

Excluding CAPITAL Expense					
Legislative	204,500	111,913	116,898	4,986	4.26%
Executive	657,100	385,514	345,064	(40,449)	-11.72%
Finance	561,200	331,105	346,785	15,680	4.52%
Legal Counsel	166,400	88,887	76,190	(12,697)	-16.66%
Comp. Planning	111,200	59,502	65,290	5,787	8.86%
Other Gov't Services	332,300	184,047	190,303	6,256	3.29%
Public Safety Operations	6,423,700	3,599,721	3,521,992	(77,729)	-2.21%
Building Dept.	531,100	334,604	390,892	56,288	14.40%
Emergency Mgmt - Hurricanes	0	290,510	0	(290,510)	
Phy. Envir. - Solid Waste/Recycle	1,614,200	535,602	668,790	133,187	19.91%
Public Works Operations	1,520,300	817,440	708,670	(108,770)	-15.35%
Inventory	0	0	0	0	
Benefit Termination Payout	113,300	65,878	35,616	(30,262)	-85%
Parks & Rec	476,600	257,523	240,133	(17,390)	-7.24%
Community Center	618,000	316,571	298,021	(18,550)	-6.22%
Senior Center	0	0	0	0	
Economic Development Programs	100,000	10,350	16,140	5,790	35.87%
Contingency/Transfers	957,000	0	0	0	
Long-Term Debt	0	0	0	0	
Non-G.O. Operations Expense	14,386,900	7,389,168	7,004,644	(487,430)	-6.96%
Non-G.O. CAPITAL Expense	1,458,400	442,747	199,371	(243,376)	
Total Non-G.O. Expense	15,845,300	7,831,915	7,204,014	(730,807)	
Non-G.O. Revenue Less Expense	\$0	\$4,582,633	\$4,454,508	\$143,584	3%

General Obligation (G.O.) Debt Service

Debt Service Ad-Valorem Revenue		88	6,185	
Debt Service Interest Revenue	0	0	0	
UG Utils- Debt Service Expense	0	0	0	
G.O. Revenue Less Expense	\$0	\$88	\$6,185	

Utility Fund Detail Budget Report

	April, 2023		VERSUS PRIOR YEAR TO DATE		
	Current Budget	Current YTD Actual	Prior YTD Actual	Vs. Prior Yr. Favorable / (Unfavorable)	% vs. Prior Year
Fund 401					
Operations Revenues					
Charges for Services	\$3,685,500	\$1,846,596	\$1,632,972	\$213,624	13%
Interest	1,000	50,121	4,601	45,520	989%
Sale of Fixed Assets / Misc.	0	0	0	0	
Total Operating Revenues	\$3,686,500	\$1,896,717	\$1,637,573	\$259,144	16%
Operations Expenditures					
Sewer Operating Incl. Depreciation	\$3,686,500	\$1,896,115	\$1,470,704	(\$425,410)	-29%
- Less Debt Service Principal [a]		0	0		
- Less Not Offset Capital Expense [b]		0	0		
Total Operating Expense	\$3,686,500	\$1,896,115	\$1,470,704	(\$425,410)	-29%
Operations Margin	\$0	\$602	\$166,869		
% Gain/(Loss)		0%	11%		

Fund 402

Impact Fee Revenues					
Sewer Impact Fees	16,000	10,900	\$136,423	(\$125,523)	-92%
Impact Fee Interest	100	50	2	48	2119%
Total IF Revenue	\$16,100	\$10,950	\$136,425	(\$125,475)	-92%
Impact Fee Expense					
Sewer Impact Fee Exp	16,100	2,868	\$77,436	\$74,568	96%
Total IF Expense	\$16,100	\$2,868	\$77,436	\$74,568	96%
Impact Fee Margin	\$0	\$8,082	\$58,989	(50,907)	-86%
% Gain/(Loss)		282%			

TOTAL FUND PERFORMANCE

TOTAL FUND Revenue	\$3,702,600	\$1,907,667	\$1,773,998	\$133,669	
TOTAL FUND Expense	\$3,702,600	\$1,898,983	\$1,548,140	(\$350,842)	
FUND Revenue Less Expense	\$0	\$8,684	\$225,858	(\$217,174)	

[a] In Enterprise Funds, debt service principal payment expenses are credited against the debt liability on the balance sheet, reducing the debt on the Balance Sheet and eliminating the expense from the Income Statement.

[b] In Enterprise Funds, the expense of Capital is allocated to depreciation, which in this report is included in the listed operating expense.

FISCAL YEAR-TO-DATE CAPITAL BUDGET ACCOUNT REPORT
April, 2023

Department	Description	Budgeted*	Paid
51/10-20 Executive/Legislative		175,000	175,000
5130 Finance		0	0
5210 Pub. Safety Admin		0	0
5211 Patrol/Fire/Rescue	Vehicles	417,200	101,132
5240 Building & Codes		65,000	0
5410 Pub. Works Admin		43,000	42,156
5412 Pub. Works Blg. Maint		307,200	18,746
5413 Pub. Works Streets	Vehicles	150,000	104,591
	Road Improvements Misc.	208,200	0
	<i>Gas Tax Financed</i>		
	<i>Appropriated Road Improvements</i>		0
	<i>Crosswalks</i>	0	0
5720 Parks		92,800	1,122
5751 Community Center		0	0
5752 Senior Center		0	0
GENERAL FUND TOTAL		1,458,400	442,747
401-5350 Sewer Operating	IMPROVEMENTS		
	Sewer Engineering and Project Cost	2,643,000	79,825
	EQUIPMENT	203,000	112,263
	Capital Offset to Depreciation Exp	(2,846,000)	(192,088)
401-5351 Sewer Impact Fee			
UTILITY FUND TOTAL		0	0
0 GRAND TOTAL		1,458,400	442,747

INVESTMENT REPORT
April, 2023

Policy Restrictions

Investment	Invest Class	Must	Int.Cap	Policy Class Cap	Current	In Limits
SBA	SBA			None	0.0%	
US Gov't Securities	USGS			100%	70.5%	Yes
Cash & CDs	CASH			None	29.5%	Yes
Money Market Funds	MMF			20%	0.0%	
Fed Instrum. & Agency	FIA			30%	0.0%	
Collat. Mortg. Obligtns.	CMO			20%	0.0%	
Commercial Paper	CP			10%	0.0%	
FMIT	FMIT			None	0.0%	

Performance @Period Ending: April, 2023

Institution	Account		Asset	Invest Class	Restriction	Account Value	Period Int. Rate	% of Portfolio
SBA: Prime	131031		Investment	SBA	General Fund	\$555	2.26%	0%
SBA: Prime	131032		Investment	SBA	Sewer Fund	\$555	2.26%	0%
TOTAL SBA						\$1,111		0.0%
U.S. Treasury Note	912828U57060	11/30/2023	Investment	USGS	General Fund	\$2,641,369	2.99%	7%
U.S. Treasury Note	912828D1060	08/31/2023	Investment	USGS	General Fund	\$2,661,167	2.67%	7%
U.S. Treasury Note	91282CER8060	5/31/2024	Investment	USGS	General Fund	\$2,620,812	3.41%	7%
U.S. Treasury Bill	912796CR8060	3/23/2023	Investment	USGS	General Fund	\$3,552,306	5.95%	10%
U.S. Treasury Bill	912796W47060	5/18/2023	Investment	USGS	General Fund	\$3,567,661	3.70%	10%
U.S. Treasury Bill	912797FX0060	9/15/2022	Investment	USGS	General Fund	\$1,980,800	4.72%	6%
U.S. Treasury Bill	912796CR8060	3/23/2023	Investment	USGS	Sewer Fund	\$1,522,417	2.04%	4%
U.S. Treasury Bill	912796X53060	12/15/2022	Investment	USGS	Sewer Fund	\$1,491,145	4.45%	4%
U.S. Treasury Bill	912796XQ7060	7/13/2023	Investment	USGS	Sewer Fund	\$5,083,601	4.79%	14%
TOTAL US TREASURIES						\$25,121,278		70.5%
Bank of America	004537065882		Cash	CASH	Working Cash	\$6,863,586	0.00%	19%
Bank of America	005562564319		Cash	CASH	Sewer Operating	\$2,936,282	0.00%	8%
Bank of America	005562564351		Cash	CASH	Sewer Impact Fee	\$10,635	0.00%	0%
JP Morgan Chase	663652210		Cash	CASH	Working Cash	\$558,660	0.00%	2%
JP Morgan Chase CD	100079555936		Cash	CD	Pool Cash	\$102,000	1.85%	0%
Seacoast Bank	4810004966		Cash	CASH	Sewer Operating	\$22,623	0.15%	0%
Seacoast Bank	4810000706		Cash	CASH	Working Cash	\$36,818	0.15%	0%
TOTAL BANKS						\$10,530,604		29.5%

TOTAL CURRENT VALUE @ PERIOD END	\$35,652,992
WEIGHTED AVERAGE TOTAL RETURN FOR CURRENT MONTH	2.8594%

CHANGE IN CASH & INVESTMENTS (Incl. interfund transfers)	Current Value	Vs. Last Month	Vs. Prior Year To Date	Vs. Prior Fiscal Yr. End
G.O. Construction & Debt Service Funds	\$0	\$0	\$0	\$0
General Fund (excl. G.O. Funds)	\$24,585,735	(\$1,374,858)	\$3,279,586	\$3,434,290
Sewer Fund	\$11,067,258	\$987,828	\$1,507,596	\$1,084,980
TOTAL	\$35,652,992	(\$387,031)	\$4,787,181	\$4,519,269
Percent Change for Current	N/A	-1.1%	15.5%	38.0%

Portfolio Report

April, 2023

GENERAL FUND						
Agent	Security Type (Last Digits Account ID)	Cost Basis	Yield to Cost	Market Value	Gain / Loss	Annual Income @ Cur. Int%
SBA	Investment-General (031)	\$555	2.26%	\$555	\$0	\$13
BoA	Cash-Pool Cash Account (5882)	\$7,102,283	0.00%	\$7,102,282.97	\$0	\$332
	<i>Contraband Pool Cash in 5882</i>	\$72,052		\$72,052.05	\$0	\$0
	<i>Pool Cash Due to Sewer Fund</i>			(906,625.63)		\$0
	<i>Economic Development</i>			595,876.89		\$0
BoA	Cash- UG Utility [Bldg] (3744)	\$0	0.00%	\$0	\$0	\$0
Seacoast	Cash-Pool Cash Account (0706)	\$36,818	0.15%	\$36,818	\$0	\$55
Seacoast	Cash-Loan Reserve (3566)	\$0	0.00%	\$0	\$0	\$0
Chase	Cash-Pool Cash (2110)	\$558,660	0.00%	\$558,660	\$0	\$0
	<i>Chase Pool Cash Due to Sewer Fund</i>			(237,049.79)		\$0
Chase	CD (5936)	\$102,000	1.85%	\$102,000	\$0	\$1,887
JP Morgan	US Treasury Securities	\$16,994,669	3.97%	\$17,024,115	\$29,446	\$674,270
ALL GENERAL FUND			2.88%	\$24,348,685	\$29,446	\$676,558
PRIOR MONTH				\$25,902,068		

SEWER OPERATING						
SBA	Investment (032)	\$555	2.26%	\$555	\$0	\$13
BoA	Cash (4319)	\$1,792,607	0.00%	\$1,792,607	\$0	\$84
Seacoast	Cash (4966)	\$22,623	0.15%	\$22,623	\$0	\$33
	<i>Cash-Pool Cash Due From Gen. Fund</i>			\$1,143,675		\$0
JP Morgan	US Treasury Securities	\$7,979,459	4.20%	\$8,097,163	\$117,704	\$335,533
ALL SEWER OPERATING FUND			4.63%	\$11,056,623	\$117,704	\$335,663
PRIOR MONTH				\$10,105,694		

SEWER IMPACT FEES (Restricted)						
BoA	Cash (4351)	\$10,635	0.00%	\$10,635	\$0	\$0
	<i>Cash-Pool Cash Due From Gen. Fund</i>			\$0		\$0
ALL SEWER IMPACT			0.00%	\$10,635	\$0	\$0
PRIOR MONTH				\$10,626		

ALL FUNDS			2.86%	\$35,415,943	\$147,150	\$1,012,221
PRIOR MONTH				\$36,018,388		
MONTHLY CHANGE				(\$602,445)		
MONTHLY CHANGE %				-1.7%		

Portfolio Report
April, 2023

GENERAL FUND											
Agent	Security Type (Last Digits Account ID)	Cusip	Maturity Date	Par Value/Face Value	Coupon Rate	Cost Basis	Yield to Maturity	Market Value	Market G/L	Accrued Interest	Income to Maturity
US Treasury Note	US Treasury Note	912828U57060	11/30/2023	2,685,000	2.125%	\$2,661,087	2.99%	\$2,641,369	-\$19,718	\$28,213	\$58,147
US Treasury Note	US Treasury Note	912828D1060	8/31/2023	2,694,000	1.375%	\$2,664,264	2.67%	\$2,661,167	-\$3,097	\$5,939	\$42,598
US Treasury Note	US Treasury Note	91282CER8060	5/31/2024	2,685,000	2.500%	\$2,663,995	3.41%	\$2,620,812	-\$43,183	\$27,477	\$95,402
US Treasury Bill	US Treasury Bill	912796CR8060	9/21/2023	3,638,000		\$3,537,210	5.95%	\$3,552,306	\$15,096		\$100,790
US Treasury Bill	US Treasury Bill	912796W47060	5/18/2023	3,575,000		\$3,497,841	3.70%	\$3,567,661	\$69,820		\$77,159
US Treasury Bill	US Treasury Bill	912797FX0060	7/11/2023	2,000,000		\$1,970,272	4.72%	\$1,980,800	\$10,528		\$29,728
ALL GENERAL FUND				17,277,000		\$16,994,669		\$17,024,115	\$29,446	\$61,629	\$403,823
								PRIOR MONTH	\$17,007,259		
										2.74%	

SEWER OPERATING											
US Treasury Bill	US Treasury Bill	912796CR8060	9/21/2023	1,535,000		\$1,515,947	2.04%	\$1,522,417	\$6,470		\$19,053
US Treasury Bill	US Treasury Bill	912796X53060	6/15/2023	1,500,000		\$1,466,106	4.45%	\$1,491,145	\$25,039		\$33,894
US Treasury Bill	US Treasury Bill	912796XQ7060	7/13/2023	5,135,000		\$4,997,405	4.79%	\$5,083,601	\$86,196		\$137,595
ALL SEWER OPERATING FUND				8,170,000		\$7,979,459		\$8,097,163	\$117,704		\$190,541
								PRIOR MONTH	\$7,952,137		
										2.39%	

ALL FUNDS				25,447,000		\$24,974,128		\$25,121,278	\$147,150	2.63%	
								PRIOR MONTH	\$25,061,633		
								MONTHLY CHANGE	\$59,645		
								MONTHLY CHANGE %	0.2%		



**CITY COMMISSION AGENDA MEMORANDUM
MAY 23, 2023 AGENDA**

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Joanne Sweeney, Admin Asst

SUBJECT: Public Safety April Monthly report

SYNOPSIS:

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: 1. April



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 APRIL 2023

	Apr-23	23/YTD	Apr-22	22/YTD
<i>Police Related Calls</i>	1,694	7,458	2,189	8,342
<i>Fire Related Calls</i>	55	267	37	126
<i>Rescue Related Calls</i>	60	222	117	459
<i>Fire Related Alarms Sounding</i>	18	68	10	160
<i>Traffic Citations</i>	144	701	220	800
<i>Written Warnings</i>	28	134	54	225
<i>Building Inspections</i>	67	252	53	211
<i>Arrests: Adults</i>	21	134	32	113
<i>Juveniles</i>	0	1	0	6
<i>City Ordinance Charges</i>	0	2	1	1
<i>Florida State Statute Charges</i>	38	235	34	181
<i>Accidents: Total</i>	18	58	24	101
<i>Street/Highway</i>	13	41	9	52
<i>Parking Lot</i>	5	24	15	49

Michael Fowler, Public Safety Director

POLICE CALLS TOTALS BY TYPE (NO CIVIL)

DB SHORES POLICE

DATES: 2023-04-01 through 2023-04-30

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
EXTRA PATROL	EP	307	18.12 %	10.23
MISCELLANEOUS LE CALL	MISC	275	16.23 %	9.17
TRAFFIC STOP	TS	254	14.99 %	8.47
PROPERTY CHECK	PRC	172	10.15 %	5.73
DIRECTED PATROL REQUEST	DPR	92	5.43 %	3.07
SUSP PERSON	SPER	58	3.42 %	1.93
SUSP VEHICLE	SVEH	36	2.13 %	1.20
MEDICAL EMERGENCY	MED1	31	1.83 %	1.03
TELEPHONE HANDLE	THC	29	1.71 %	0.97
ZONE ACCOUNTABILITY PATR	ZAP	29	1.71 %	0.97
SUSP INCIDENT	SINC	26	1.53 %	0.87
FIRE ALARM	ALARMF	18	1.06 %	0.60
WALK & TALK	WT	15	0.89 %	0.50
TEST LE CALL	TEST	14	0.83 %	0.47
TOWED VEHICLE	TOW	14	0.83 %	0.47
DISTURBANCE	DIST	13	0.77 %	0.43
INVESTIGATION	INV	13	0.77 %	0.43
NARCOTICS	NARC	13	0.77 %	0.43
SUSPECT STOP	SS	12	0.71 %	0.40
TRESPASSERS	TRES	12	0.71 %	0.40
MVA	MV	11	0.65 %	0.37
NOISE	NOISE	10	0.59 %	0.33
FALL- NON EMERGENCY	TRAU3	9	0.53 %	0.30
RECKLESS DRIVER	RD	9	0.53 %	0.30
SCHOOL ZONE	SZ	9	0.53 %	0.30
FLAG DOWN	FLAG	8	0.47 %	0.27
WARRANT	WAR	8	0.47 %	0.27
ANIMAL COMPLAINT	AC	7	0.41 %	0.23
BLS - MED/TRAUMA	BLS3	7	0.41 %	0.23
INFORMATION GIVEN	INFO	7	0.41 %	0.23
SPECIAL DETAIL	SDL	7	0.41 %	0.23
WALKUP	WALKUP	7	0.41 %	0.23
WELL BEING CHECK	WBC	7	0.41 %	0.23
911 CK/OPEN LINE	911CK	6	0.35 %	0.20
ASSAULT/BATTERY	ABAT	6	0.35 %	0.20
ILLEGAL PARKING	PARK	6	0.35 %	0.20
MEDICAL NON-EMERG	MED2	6	0.35 %	0.20
BURGLARY ALARM	ALARM	5	0.30 %	0.17
ELEVATOR CALL	ELEV	5	0.30 %	0.17
HIT&RUN MVA	MVHR	5	0.30 %	0.17
RADAR	RADAR	5	0.30 %	0.17
SHOPLIFTING	SHOP1	5	0.30 %	0.17
DEAD PERSON	DEAD	4	0.24 %	0.13
DOMESTIC DISTURBANCE	DV	4	0.24 %	0.13
FOUND PROPERTY	PROPF	4	0.24 %	0.13
MEDICAL UNKNOWN	ALARMM	4	0.24 %	0.13

POLICE CALLS TOTALS BY TYPE (NO CIVIL)

DB SHORES POLICE

DATES: 2023-04-01 through 2023-04-30

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
MENTALLY ILL PER	MIP	4	0.24 %	0.13
ASSIST AGENCY	ASSIST	3	0.18 %	0.10
DISABLED VEHICLE	DAV	3	0.18 %	0.10
FRAUD	FRAUD	3	0.18 %	0.10
HARRASSING CALLS	HCALL	3	0.18 %	0.10
HAZARDOUS COND	HZM	3	0.18 %	0.10
MVA W/ HAZARD	MVH	3	0.18 %	0.10
MVA W/ INJURIES	MVI	3	0.18 %	0.10
ROAD OBSTRUCTION	RDOB	3	0.18 %	0.10
TRAUMA EMERGENCY	TRAU1	3	0.18 %	0.10
UNCONSCIOUS	UNC	3	0.18 %	0.10
BUSINESS ALARM	ALARMB	2	0.12 %	0.07
CARBREAK	CB	2	0.12 %	0.07
DANGEROUS COND FD	DCFD	2	0.12 %	0.07
DRUNK DRIVER	DUI	2	0.12 %	0.07
DRUNK PERSON	IP	2	0.12 %	0.07
FLEEING DRIVER	FLEE	2	0.12 %	0.07
OPEN DOOR	OPD	2	0.12 %	0.07
STOLEN VEHICLE	SV	2	0.12 %	0.07
STROKE / CVA	CVA	2	0.12 %	0.07
SUICIDAL PERSON	SP	2	0.12 %	0.07
THEFT	THEFT	2	0.12 %	0.07
THREATENING CALL	TCALL	2	0.12 %	0.07
TRAUMA CRITICAL	TRAUE	2	0.12 %	0.07
911 CK/OPN LINE/MED HAZ	911MED	1	0.06 %	0.03
ATT TO CONTACT	ATC	1	0.06 %	0.03
BOLO	BOLO	1	0.06 %	0.03
BURG/RESO	BURGR	1	0.06 %	0.03
CARDIAC ARREST	CPR	1	0.06 %	0.03
CITY ORDINANCE VIOLATION	COV	1	0.06 %	0.03
CIVIL COMPLAINT	CIVIL	1	0.06 %	0.03
DECON	DECON	1	0.06 %	0.03
ESCORT	ESCORT	1	0.06 %	0.03
FIGHT	FIGHT	1	0.06 %	0.03
FIRE OUT	FOUT	1	0.06 %	0.03
FIRE OUTSIDE STRUCTURE	FOS	1	0.06 %	0.03
FIREWORKS	FIREWK	1	0.06 %	0.03
HIT&RUN MAJOR	MVHRMI	1	0.06 %	0.03
HOLD UP ALARM	ALARMH	1	0.06 %	0.03
MISC FIRE SERVICE CALL	MISCF	1	0.06 %	0.03
MISSING PERSON RECOVERED	MPR	1	0.06 %	0.03
MVA MAJOR	MVMI	1	0.06 %	0.03
NE ASST- FIRE REQ	LEO2	1	0.06 %	0.03
PANIC ALARM	ALARM P	1	0.06 %	0.03
POWER LINES HAZARD	PL	1	0.06 %	0.03
PROWLER	PROW	1	0.06 %	0.03

POLICE CALLS TOTALS BY TYPE (NO CIVIL)

DB SHORES POLICE

DATES: 2023-04-01 through 2023-04-30

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
RECOVERED SIG 10	SVR	1	0.06 %	0.03
SEX OFFENSE HIGH PRI	SO1	1	0.06 %	0.03
SEXUAL OFFENDER	SXF	1	0.06 %	0.03
SOLICITORS	SOL	1	0.06 %	0.03
STRUC FIRE COMM/HIGHRISE	SFCH	1	0.06 %	0.03
STRUCTURE FIRE	SF	1	0.06 %	0.03
SUSPICIOUS VEHICLE	SVEH1	1	0.06 %	0.03
VANDALISM	VAND	1	0.06 %	0.03
TOTAL CALLS:		1,694	100.00%	56.47

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.

DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY

APRIL 2023 STATISTICS

FIRE CALLS	CURRENT MONTH	YEAR TO DATE	PRIOR YEAR
STRUCTURE FIRES	1	4	2
HAZARDOUS CONDITIONS	5	71	23
VEHICLE FIRES	0	0	0
BOAT FIRES	0	0	0
OTHER FIRES NOT LISTED	2	17	7
VEHICLE CRASHES W/ENGINE RESPONSE	4	14	4
SERVICE CALLS	28	310	63
FIRE ALARMS	18	203	60
CANCELLED EN ROUTE	15	157	32
TOTALS	73	776	191

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	3	4	44	38	11	19
HOTEL/MOTEL	3	4	44	30	16	8
ASSEMBLY	0	0	1	2	0	1
MERCANTILE	2	2	33	8	23	4
RESTAURANT	2	0	18	11	10	3
BUSINESS	16	2	84	12	40	5
OTHER	16	8	189	8	2	0
CONSTRUCTION	0	0	34	8	20	5
OCCUPATIONAL LICENSES	0	0	0	0	0	0
APARTMENTS/CONDO	4	1	40	13	26	3
TOTALS	46	21	487	130	148	48

PLANS EXAMINATION HOURS: 0 HRS

DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY
APRIL 2023 STATISTICS

EMS CALLS	CURRENT MONTH	YEAR TO DATE	PRIOR YEAR
ALS CALLS	24	420	167
BLS CALLS	36	484	178
TOTALS	60	904	345



Daytona Beach Shores Department of Public Safety
Office of Director Michael Fowler
3050 S. Atlantic Ave.
Daytona Beach Shores, FL 32118
Office 386-763-5333

TRAINING SEMINARS ATTENDED

Month of April 2023

<i>Zachary Ignoffo</i>	<i>4/10-11</i>	<i>Paramedic Review Orlando</i>
<i>Jacob Smith Timothy Meineke</i>	<i>4/11-12</i>	<i>De-Escalation Techniques DSC</i>
<i>Jessica Long</i>	<i>4/17</i>	<i>Assertiveness Skills for Managers-online</i>



Daytona Beach Shores Department of Public Safety
Office of Director Michael Fowler
3050 S. Atlantic Ave.
Daytona Beach Shores, FL 32118
Office 386-763-5333

MONTHLY REPORT FOR APRIL 2023

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 brake pads	veh #169
Replace rear driveshaft	veh #163
Replace wiper blades	veh #140
Replace water pump	veh #Q77
Replace wiper blades	veh #148
Replace wiper blades	veh #E77
Replace wiper blades	veh #176
Install outlet box	veh #183
Install outlet box	veh #185
Install outlet box	veh #182
Install outlet box	veh #184
Install outlet box	veh #186



**CITY COMMISSION AGENDA MEMORANDUM
MAY 23, 2023 AGENDA**

TO: Honorable Mayor and Members of the City Commission
FROM:
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Approval for Mayor to travel for Accreditation Award

SYNOPSIS:

Per travel policy, this travel was not budgeted and therefore requires commission approval.

FISCAL IMPACT STATEMENT:

BACKGROUND:

The Public Safety Department is receiving an award for their accreditation on June 28th in Orlando, FL. This request is for a one-night stay.

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: None



CITY COMMISSION AGENDA MEMORANDUM MAY 23, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Approval of the City of Port Orange - Universal Engineering Sciences, Inc. Piggyback Contract for Building Inspector and Plans Examiner Services

SYNOPSIS:

The Building Division has seen an increase in building inspection demand over the past years and this increase has recently been amplified. In FY 2019-2020, FY 2020-2021 and FY 2021-2022, average daily inspections were 6, 7.4 and 10.1, respectively, with a staff of two (2) inspectors plus a building official. In the current FY 2022-2023, with only one (1) inspector and a building official, the current daily inspection average is 13.1. In addition, final inspections were typically conducted within two (2) to three (3) days. However, this calendar year, final inspections are now being pushed out one (1) to one and a half (1.5) weeks. Therefore, it has become necessary to outsource some inspections to assist the Building Division in providing a satisfactory and safe level of service while ensuring staff relief for personal time (ie sickness and vacation) and emergencies. This is a very common strategy employed by local governments in similar circumstances.

After reviewing several building inspection and plans examiner service contracts, staff has identified the City of Port Orange - Universal Engineering Sciences, Inc. contract as the best option to piggyback on. The subject contract was competitively bid and approved in 2022 and may be renewed for two (2) additional two-year terms.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

Approval

SUGGESTED MOTION:

Approval.

- ATTACHMENT:**
1. PW- UES - City of DB Shores- Piggyback Agreement (Port Orange Contract)
 2. Exhibit A - Port Orange - UES Standard Contract for Services (2022) - Building Inspections-Plan Review Etc
 3. NEW CDBS Letter for contract

CITY OF DAYTONA BEACH SHORES'
AGREEMENT TO PIGGYBACK SERVICES CONTRACTED BY THE CITY OF PORT
ORANGE

THIS AGREEMENT TO PIGGYBACK SERVICES is made and entered into this day of _____, 2023, by and between the CITY OF DAYTONA BEACH SHORES, a Florida municipality, hereinafter referred to as the “City”, and UNIVERSAL ENGINEERING SCIENCES, LLC., hereinafter referred to as “Contractor”, concerning that certain agreement entitled “City of Port Orange Standard Contract for Services”, effective the 1st day of October 2022 (“Port Orange Contract”).

WITNESSETH:

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning the contractor’s compliance for Florida’s Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency’s statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 287.135, Fla. Stat., provides restrictions on local governments contracting with companies that are on certain Scrutinized Companies lists; and

WHEREAS, The City of Port Orange, Florida advertised a Request for Proposals for Bid No.: 22-12, for building inspection and plan review services; and

WHEREAS, The City of Port Orange, Florida thereafter awarded the bid to Contractor based on the terms and conditions set forth in the Contract between Contractor and the City of Port Orange, effective the 1st day of October, 2022, a copy of which is attached hereto and made a part hereof as Exhibit “A.”; and

WHEREAS, the initial term of the Port Orange Contract is three (3) years, with the option to renew for two (2) additional (2) two-year terms;

WHEREAS, the building inspection and plan review services provided by Contractor are needed by the City of Daytona Beach Shores; and

WHEREAS, the Port Orange Contract was competitively bid with procedural guarantees of fairness and competitiveness substantially equivalent to those of the City of Daytona Beach Shores; 2) The City of Daytona Beach Shores and Contractor authorize the “piggyback” on the competitive pricing of their Contract; and 3) it is in the best interest of the residents of the City of Daytona Beach Shores to enter into an agreement with Contractor containing similar terms and conditions as contained the Port Orange Contract; and

WHEREAS, the parties hereby agree and consent to “piggyback” on the rates/prices and terms and conditions in Port Orange Contract, all attachments, addenda, unit prices, and all other applicable documents except as otherwise provided herein.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Incorporation by Reference. The foregoing WHEREAS clauses are incorporated by reference.

2. Amendment. This Agreement to “piggyback” services hereby amends and supplements the terms of the Port Orange Contract. The City of Daytona Beach Shores and its equivalent staff and address shall be substituted for the City of Port Orange, Florida and its staff and addresses, as may be required in the awarded Port Orange Contract. In the event of a conflict between the terms of the Port Orange Contract and terms of this Agreement to “piggyback”, the terms of this Agreement to “piggyback” shall prevail.

3. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the City within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency’s custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter 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 for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- (d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains

public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

- (e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**DAYTONA BEACH SHORES CITY HALL
OFFICE OF THE CITY CLERK
2990 SOUTH ATLANTIC AVENUE
DAYTONA BEACH SHORES, FLORIDA 32118
(386) 763-5353**

4. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the City harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Volusia County Circuit Court on an expedited basis to enforce the requirements of this section.

5. Compliance/Consistency with Section 768.28, Fla. Stat. Any indemnification or agreement to defend or hold harmless by City specified in the Port Orange Contract shall not be construed as a waiver of City's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by the City of Port Orange in the Port Orange Contract in derogation hereof shall be void and of no force or effect.

6. Non-appropriation. City's performance and obligation to pay under this Agreement is contingent upon an appropriation during the City's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the City Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the City subject to the City paying all invoices for services rendered during the period the Agreement was funded by appropriations.

7. E-Verify Compliance. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.

8. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with City for goods or services of any amount may be terminated at the option of City if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of City if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

9. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Volusia County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

10. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fee and costs.

11. Additional Terms. Notwithstanding any of other provision to the contrary, the parties agree as follows:

A. None.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

UNIVERSAL ENGINEERING SERVICES, LLC

Print Name: _____

Title: _____

CITY OF DAYTONA BEACH SHORES:

ATTESTED BY:

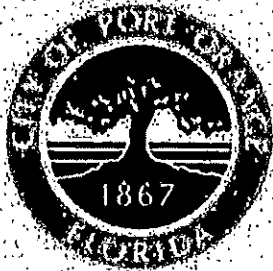
Print Name: _____

By: Cheri Schwab, City Clerk

Title: _____

APPROVED AS TO FORM

Gretchen R. H. "Becky" Vose,
City Attorney



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this 6 day of September, 2022, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and **UNIVERSAL ENGINEERING SCIENCES, LLC** ("Contractor"), a Florida limited liability corporation whose principal address is 4205 Vineland Road, Suite L1, Orlando, Florida 32811. The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to provide building inspections and plan review services on an as needed basis, pursuant to Request for Proposal 22-12 ("RFP 22-12"). This Contract together with RFP 22-12, Addendum No. 1, and Contractor's Schedule of Unit Pricing, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference, shall constitute the formal written contract between the City and Contractor. For convenience, Section 3, Scope of Services, from RFP 22-12, and the Contractor's Schedule of Unit Pricing, are attached hereto as **Exhibit "1"**. A complete copy of RFP 22-12, Addendum No. 1, and Contractor's Schedule of Unit Pricing are available in the Office of the City Clerk. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

(b) The time, manner and place for performance of such services shall be:

Term: Notwithstanding the date of execution, the initial term of this Contract shall become effective on October 1, 2022 ("Effective Date") and shall continue for a period of three (3) years ("Initial Term").

Renewals: Upon written agreement of the Parties, this Contract may be renewed for two (2) additional two-year terms, upon review and approval of the City Manager and budget appropriation.

Manner and Place: The work shall be performed in accordance with and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances.

Time and Essence: Contractor acknowledges that time is of the essence for this Contract.

Authorization for Services: This Contract standing alone does not authorize the purchase of any goods or services or require the City to place any orders for goods or service. Authorization for the purchase of goods or services from Contractor under this Contract shall be upon issuance of a Notice to Proceed and a written Purchase Order issued by the City and executed by the City Manager. The City reserves the right to contract with other parties for the goods and services contemplated by this Contract, as determined in the City's sole and absolute discretion.

2. City Obligations. In return for the services identified above, the City agrees to compensate the Contractor at the pricing set forth in Exhibit "1," attached hereto, in an amount not to exceed the appropriated budget. All payments shall be governed by the Local Government Prompt Payment Act set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Administration. The Community Development Director, Tim Burman, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

4. Liens. Contractor acknowledges that Contractor shall not be entitled to lien the City or other public property.

5. Termination for Convenience of the City.

(a) The parties agree that the City may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or part, whenever the City Manager of Port Orange shall determine that such termination is in the best interest of the City.

(b) Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the City Manager or his designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.

(c) Upon receipt of such Notice, the Contractor shall:

- (i) cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
- (ii) place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;
- (iii) terminate all subcontracts except those made with respect to contract performance not subject to the Notice;
- (iv) settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Finance Director of Port Orange; and
- (v) use best efforts to mitigate any damages which may be sustained by the Contractor as a consequence of termination under this clause.

(d) After complying with the provisions of subparagraph (c), above, the Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of termination, unless one or more extensions of three (3) months each are granted by the Finance Director.

(e) The Finance Director, with the approval of the City Manager, shall pay from the using department's budget, reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or work completed. In no event shall this amount be greater than the original contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the supplies not delivered or the services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(f) In the event that the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Finance Director shall pay the Contractor the amounts determined as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this clause:

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.

- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 23 of this contract concerning disputes.

6. Termination for Convenience for Subcontractors. In accordance with the termination for the convenience of the City provision of this contract, the Contractor shall include similar provisions in any subcontract, and shall specifically include a requirement that subcontractors make all reasonable efforts to mitigate damages which may be suffered. Failure to include such provisions shall bar the Contractor from any recovery from the City whatsoever of loss or damage sustained by a subcontractor as a consequence of termination for convenience.

7. Termination for Default. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein. In the event of default by the contractor, the City reserves the right to procure the item(s) bid from other sources and holds the bidder responsible for excess costs incurred as a result. City Council may elect to refrain from doing business with the bidder as stipulated in City Code 2-276 Suspension and Disbarment.

8. Examination of Records

(a) The Contractor agrees that the City, or any duly authorized representative, shall, until the expiration of five (5) years after final payment hereunder, have access to and the right to examine and copy any pertinent books, documents, papers and records of the Contractor involving transactions related to this Contract.

(b) The Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the City or any duly authorized representative shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and copy any pertinent books, documents, papers and records of such contractor involved in transactions related to such subcontract, or this Contract. The term subcontract as used herein shall exclude purchase orders for public utility services at rates established for uniform applicability to the general public.

(c) The period of access provided in subparagraphs (a) and (b) above for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance of this contract or any subcontract shall continue until any appeals, arbitration, litigation or claims shall have been finally disposed of.

9. Public Records Compliance. Contractor shall comply with public records laws as set forth in Chapter 119, Florida Statutes, and shall specifically:

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.

(d) Upon completion of the Contract, Contractor shall transfer to the City, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt from public records disclosure requirements. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

If Contractor does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

CONTRACTOR QUESTIONS RELATING TO CONTRACTOR'S DUTIES TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT MUST BE FORWARDED TO THE OFFICE OF THE CITY CLERK, CITY HALL, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129; TELEPHONE: (386) 506-5563; E-MAIL: CITYCLERK@PORT-ORANGE.ORG.

10. Termination for Non-Appropriation of Funds

(a) If funds are not appropriated for any succeeding fiscal years subsequent to the one in which this contract is entered into, for the purpose of this Contract, then the City may terminate this Contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, the City shall be liable only for payments due through the date of termination.

(b) The City agrees that should it terminate in accordance with this Section, it shall not obtain services which are substantially equal to or similar to those for which this contract was entered into. This provision shall survive any termination of the Contract.

11. Insurance: Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractor shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Contractor shall be primary and non-contributory. All insurance coverages of the Contractor shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Contractor's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation. The City shall not accept Workers' Compensation Exemptions. Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other

Insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts.

The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with this Contract and does not waive the insurance required by this Contract.

Should at any time the Contractor or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The City shall be under no obligation to purchase such insurance; nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

Standard Insurance Requirements			
	Insurance	Standards	Additional Requirements
☒	<u>Workers' Compensation:</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit.	<u>Contract Amount</u> Up to \$10 million \$10 - \$20 million Contracts over \$20 million To Be Determined by the City.	<u>Limits</u> Statutory/\$500,000 Statutory/\$1,000,000 ☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.
☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property Damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Bodily Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			

☐	Property Insurance Builders Risk. Additional Coverage:	Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☒	Professional Liability/Errors and Omissions	Limits: Coverage - \$1,000,000	
☐	Installation Floater (IT)	Limits: Coverage - \$ To be determined.	
☐	Contractor Pollution Liability	Limits: Coverage - \$1,000,000	
☐	Umbrella Policy	Limits: Coverage - \$ To be determined.	
☐	Payment and Performance Bond Required	Limits: Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$100,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods.		

12. A Contract for the purchase of supplies shall be governed by the City of Port Orange Code of Ordinances, as amended, and such supplies shall be deemed "goods," as defined therein.

13. Assignability of Contract. Neither this contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written approval of the City Council.

14. Modifications or Changes to this Contract:

(a) Change Orders. The Department Head, with the concurrence of the City's signatory as required by the City's Purchasing Policy, shall without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a change order. Such orders shall be limited to reasonable changes in the services to be performed or the time of the performance. The City will not be held liable for any changes which have not been properly authorized and approved in accordance with this Contract.

(b) If any change under this clause causes an increase or decrease in Contractor's cost of, or time required for the performance of the work hereunder, Contractor shall receive an equitable adjustment in accordance with subparagraph (d), which shall include all compensation to the Contractor, or the City, of any kind in connection with such change, including all costs and damages related to or incidental to such change.

(c) Contractor need not perform any work described in any change order unless it has received a certification from the City that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

(d) No claim for changes ordered hereunder shall be considered if made after final payment in accordance with the Contract.

15. Sovereign Immunity. The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature

for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

16. Warranties: Contractor warrants that (1) the supplies to be provided to the City pursuant to this Contract are fit and sufficient for the purpose intended; (2) the supplies are merchantable, of good quality, and free from defects, whether patent or latent, in material or workmanship, and (3) the supplies sold to the City pursuant to this Contract conform to the standards required by this Contract.

Contractor further warrants that Contractor has title to the supplies provided, and that the supplies are free and clear of all liens encumbrances, and security interests. All warranties made in this Contract, together with service warranties and guarantees, shall run to the City and its successors and assigns.

17. Additional Warranties: Contractor further expressly warrants that materials and workmanship are warranted from defect for a one-year period. This is a minimum acceptable warranty.

18. Additional Bond Security: If any surety bond furnished in connection with this Contract becomes unacceptable to the City, Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the City and a person supplying labor and materials in the prosecution of work contemplated by this Contract. Contractor expressly acknowledges that if the work to be performed hereunder is a public work, a Payment and Performance Bond, in accordance with Florida Statutes Section 255.05, in a form acceptable to the City, shall be provided and recorded with the Clerk of Volusia County at Contractor's expense.

19. Inspection

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and their products) shall be subject to inspection and test by the City, to the extent practicable at all times and places including the place of manufacturer, and in any event prior to acceptance.

(b) In the event any supplies or lots of supplies are defective in material or workmanship, or otherwise not in conformity with the requirements of this Contract, the City shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Finance Director, corrected in place by and at the expense of Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed or promptly to replace or correct such supplies or lots of supplies, the City may either (i) by contract or otherwise replace or correct such supplies and charge Contractor the cost for such replacement or correction; or (ii) may terminate this Contract for default as provided in the clause of this Contract entitled "Termination for Default." Unless Contractor corrects or replaces such supplies within the delivery schedule, the Finance Director may require the delivery of such supplies at a reduction in price, which is equitable under the circumstances. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract. Failure to inspect and accept or reject supplies shall neither relieve Contractor from responsibility for such supplies as are not in accordance with the Contract requirements nor impose liability on the City therefor.

(c) The inspection and test by the City of any supplies or lots thereof does not relieve Contractor from any responsibility regarding defects or other failures to meet the Contract requirements, which may be discovered prior to acceptance. Except as otherwise provided in this Contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

20. Liability for Loss or Damage.

(a) Contractor shall be liable for any loss of, or damage to, City property caused by the negligence, recklessness, or intended wrongful misconduct of Contractor, his/its agents, servants and employees and shall indemnify and save the City harmless against all actions, proceedings, claims, demands, costs, damages and expenses, including attorney's fees, by reason of any suit or action brought for any actual or alleged injury to or death of any person or damage to property other than City property, resulting from the performance of the Contract by Contractor, his/its agents, servants and employees. Contractor shall submit a full written report to the Finance Director within twenty-four (24) hours following the occurrence of such damage, loss or injury.

(b) To the fullest extent permitted by law, in addition to the express duty to indemnify City when there is any causal connection between Contractor's work and any injury, loss, damage, death or property damage, Contractor expressly undertakes a duty to defend City as a separate duty, independent of and broader than the duty to indemnify. The duty to defend agreed to by Contractor hereby expressly include all costs of litigation, attorney's fees, settlement costs and reasonable expenses in connection with the litigation, whether or not the claims made for loss, injury, damage or property damage are valid or groundless and regardless of whether the defense of City is maintained by the City or assumed by Contractor as long as the claims made could be causally connected to Contractor as reasonable determined by City.

21. Non-discrimination. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, marital status, age or national origin, except where such is a bona-fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Contractor agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

22. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager, appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, MMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

23. Force Majeure. Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force Majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

24. Controlling Law. THIS AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY, CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.

25. Additional Provisions. This Contract includes all additional provisions as may have been outlined in written quotes and purchase orders and any attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work. In the event of a conflict between any attachments or exhibits to this Contract, and this Contract, the language of this Contract shall control.

26. Integration. This Contract and the documents incorporated herein by reference shall constitute the whole agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto.

27. Notice. For purposes of this agreement, notices shall be sent as follows:

City:	City of Port Orange Attention: City Manager 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5501
Copy to:	City of Port Orange Attention: Tim Burman, Community Development Director 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5615
Contractor:	Universal Engineering Sciences, LLC Attention: Dave Witsken, CEO 4205 Vineland Road Suite L1 Orlando, Florida 32811 (386) 756-1105 – Telephone (386) 760-4067 – Facsimile bphol@universalengineering.com

Notice or other communication given under the Contract will be in writing and delivered by hand, sent by facsimile (provided acknowledgement of receipt thereof is delivered to the sender), sent by certified, registered mail, or sent by any nationally recognized overnight courier service to the addresses provided herein. The parties may, from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least 10 days written notice to the other party.

28. Contract Construction

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of

an executed copy of this Agreement shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Agreement.

29. Authority to Sign. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

[Remainder of this page intentionally left blank]

Witnesses:

Christina Meyer
Printed Name: Christina Meyer

Jaime Rivera
Printed Name: Jaime Rivera

UNIVERSAL ENGINEERING SCIENCES, LLC

By:

Dave Witsken
Dave Witsken, CEO

If this Contract is signed by an individual not identified as the President of the corporation in the records of the Florida Department of State, Division of Corporations, please provide written authorization for that individual to enter into contracts on behalf of the corporation.

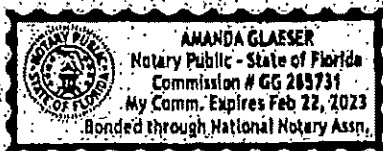
Date: Aug 30, 2022

STATE OF FLORIDA

COUNTY OF ORANGE

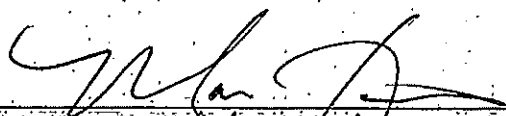
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 30 day of AUGUST, 2022, by Dave Witsken, as CEO of Universal Engineering Sciences, LLC, a Florida limited liability corporation. He is ☒ personally known or has produced as identification.

Amanda Glaeser
Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:



Witnesses:

CITY OF PORT ORANGE


Printed Name: Matt Jones

By: 
Donald O. Burnette, Mayor


Printed Name: Tracee Cody

Date: 9/6/2022

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 1st day of September, 2022, by Donald O. Burnette, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is personally known or produced as identification.

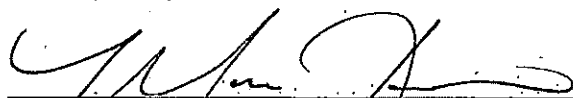


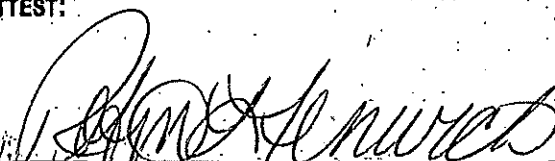
TRACEE CODY
Commission # HH 263572
Expires May 11, 2026


Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:


Printed Name: Matt Jones

By: 
Robin L. Fenwick, MMC, City Clerk


Printed Name: Tracee Cody

Date: 9/6/2022

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this 1st day of September, 2022, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is personally known or produced as identification.



TRACEE CODY
Commission # HH 263572
Expires May 11, 2026

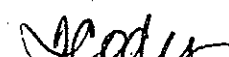

Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

EXHIBIT "1"

Contractor's Schedule of Unit Pricing and RFP 22-12 Section 3

Consisting of 3 Pages



**ATTACHMENT 1
RFP #22-10 SCHEDULE OF UNIT PRICING**

**CITY OF PORT ORANGE
BUILDING INSPECTION AND PLAN REVIEW SERVICES**

Completed Attachment 1 Bid Proposal form **MUST** be Included with Bid Submission
 Bidders are required to complete all fields shaded in green.

NAME OF BUSINESS:		Universal Engineering Sciences	
CONTACT PERSON:		Brian Pohl, PE, Branch Manager	
EMAIL ADDRESS:		bpohl@universalengineering.com	
AUTHORIZED SIGNATURE:		<i>Brian Pohl</i>	
DESCRIPTION	APPROXIMATE YEARLY HOURS	WEEK(DAY) HOURLY RATE	TOTAL
A. FIELD INSPECTION - BUILDINGS	5,200	\$85.00	\$442,000.00
B. PLAN REVIEW SERVICES	1,040	\$125.00	\$130,000.00
GRAND TOTAL			\$572,000.00

SECTION 3 – SCOPE OF WORK

PROJECT DESCRIPTION:

Provide building inspections and plan review services, included but not limited to the following:

SCOPE OF SERVICES:

A. Building Inspections

Provide building, mechanical, electrical and plumbing inspection services on an as needed basis. Inspect structures for verification of compliance with the current Florida Building Code.

Provide approximately 5,200 hours per year of building inspections working under the direction of the Director of Community Development or designee on an as needed basis.

The minimum requirement is at least one inspector licensed in the State of Florida in each of the following categories: Building, Plumbing, Mechanical, Electrical as a Building Inspector with a minimum of 4 (four) years of experience. The person(s) performing the inspections shall hold State of Florida licenses and/or certifications in those disciplines for which he/she is performing inspections. The required certification will be specified at the time of the service request.

Inspectors are expected to provide daily inspections using electronic logs that will be uploaded to SmartGov. Inspectors are expected to interact with homeowners, contractors, engineers, community development, public utilities and public works personnel to ensure that inspection services are completed on time and in a manner that promotes community service and support, while in compliance with Florida Building Code and City Codes and Ordinances. To complete roof inspections, inspectors are expected to get on the roof to inspect and verify compliance with current codes. If the roof slope is greater than 5/12 the inspectors can verify the re-roof inspection is in compliance with current codes by spot checking the roof with a ladder on the eaves. Inspectors are expected to have the knowledge and ability to relay information to the Building Official or Community Development Director or designee.

B. Plan Review.

Review plans for compliance with the minimum standard of the current Florida Building Code. Provide approximately 1,040 hours per year under the direction of the Director of Community Development or designee on an as needed basis.

Plan reviewers are expected to review plans that are required by Florida Statutes, with electronic log of reviews completed each day and uploaded to SmartGov. Reviewers are expected to communicate requirements to architects, engineers, contractors, project managers and homeowners and interact with other departments to complete reviews in an electronic form. The plan reviews must be in done in a reasonable amount of time in relation to the scope of the project and at the direction of the Director of Community Development or designee. Reviewers may be required to complete a site visit to ensure compliance with Florida Statutes and Building Code requirements. Reviewers should be capable of relaying information to the Building Official or designee.

The minimum requirement is at least one inspector licensed in the State of Florida in each of the following categories: Building, Plumbing, Mechanical, Electrical as a Plan reviewer and a minimum of 4 (four) years of experience. The person(s) performing the plan reviews shall hold State of Florida licenses and/or certifications in those disciplines for which he/she is performing plan review. The required certification will be specified at the time of the service request.

Supplementary Conditions

1. Invoices are to be submitted monthly on the same week of every month.
2. A weekly work log and time sheet shall be submitted to the Director of Community Development or designee.
3. Inspectors will possess required equipment, safety gear and vehicles to complete the tasks. Inspectors will also have laptops or tablets for access to SmartGov.
4. The City reserves the right to request the replacement of any Inspector or plan reviewer if it is in the City's best interest.
5. The City is currently in the process of implementing SmartGov. Awarded supplier will be expected to utilize SmartGov to streamline workflows.
6. The City will provide SmartGov training to the selected firm(s).
7. The City reserves the right to award this solicitation to one or multiple firms.
8. No bonds will be associated with the RFP or work resulting from the RFP.
9. Plan Review services may be provided remotely.
10. All proposers must be able to provide all services in this RFP (Section 3 – Scope of Work).

[END OF SPECIFICATIONS]

[Remainder of page left intentionally blank]



May 16, 2023

Steve Edmunds

Daytona Beach Shores

2990 S Atlantic Ave

Daytona Beach Shores, FL 32118

Subject: Daytona Beach Shores Agreement

Dear Mr. Edmunds:

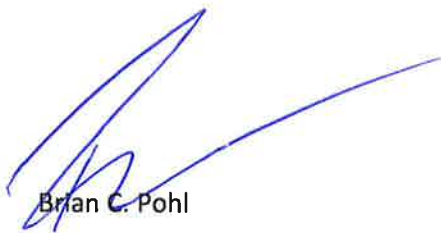
Please find attached the current contract that UES has with the City of Port Orange.

UES is agreeable to allow Daytona Beach Shores to piggyback the attached City of Port Orange Request for proposal. It is our understanding that the City of Daytona Beach Shores has reviewed the contract and agrees to the terms and conditions.

If you have any questions or require additional information, feel free to contact us.

Sincerely,

UES



Brian C. Pohl

Branch Manager



**CITY COMMISSION AGENDA MEMORANDUM
MAY 23, 2023 AGENDA**

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Approval of the Volusia County - LaTour Enerprizes, Inc. d/b/a Economy Electric Company, Inc. Piggyback Contract For Electrical Services

SYNOPSIS:

The City has been without an electrician since April 19, 2023. After advertising and unsuccessfully being able to hire a replacement, staff is proposing to utilize electrical contractors for important projects until a full-time replacement can be hired and also for future projects as needed. Volusia County has an electrical services contract with LaTour Enerprizes, Inc. d/b/a Economy Electric Company, Inc., which has been competitively bided pursuant to state law. Due to the difficulty in filling the position, staff is proposing piggybacking on the said County contract.

The City electrician is responsible for skilled electrical installation, maintenance and repair of the city's electrical systems and assets including, but not limited to, municipal buildings, facilities, generators and street lighting.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

Approval

SUGGESTED MOTION:

Approval

- ATTACHMENT:**
1. PW- Econ. Electric - City of DB Shores- Piggyback Agreement (Volusia Contract)
 2. EXHIBIT A - Economy Electric - City of Daytona Beach Shores Piggyback Proposal 2023

CITY OF DAYTONA BEACH SHORES'
AGREEMENT TO PIGGYBACK SERVICES CONTRACTED BY VOLUSIA COUNTY

THIS AGREEMENT TO PIGGYBACK SERVICES is made and entered into this day of _____, 2023, by and between the CITY OF DAYTONA BEACH SHORES, a Florida municipality, hereinafter referred to as the “City”, and ECONOMY ELECTRIC COMPANY hereinafter referred to as “Contractor”, concerning that certain agreement entitled “Volusia County Master Agreement No. 81570350-1”, originally dated the 1st day of December 2021 (“Volusia Contract”).

WITNESSETH:

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning the contractor’s compliance for Florida’s Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency’s statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 287.135, Fla. Stat., provides restrictions on local governments contracting with companies that are on certain Scrutinized Companies lists; and

WHEREAS, On or around the 21st day of September, 2021, the County of Volusia, Florida advertised a Request for Proposals for Bid No.: 21-B-165MC, for Electrical Services; and

WHEREAS, The County of Volusia, Florida thereafter awarded the bid to Contractor based on the terms and conditions set forth in the Contract between Contractor and the County of Volusia, Florida, dated on or around the 1st day of December, 2021, a copy of which is attached hereto and made a part hereof as Exhibit “A.”; and

WHEREAS, the initial term of the Volusia Contract is three (3) years, with the option to renew for an additional (2) one-year terms;

WHEREAS, the electrical services provided by Contractor are needed by the City of Daytona Beach Shores; and

WHEREAS, the Volusia County Contract was competitively bid with procedural guarantees of fairness and competitiveness substantially equivalent to those of the City of Daytona Beach Shores; 2) The City of Daytona Beach Shores and Contractor authorize the “piggyback” on the competitive pricing of their Contract; and 3) it is in the best interest of the residents of the City of Daytona Beach Shores to enter into an agreement with Contractor containing similar terms and conditions as contained the Volusia Contract; and

WHEREAS, the parties hereby agree and consent to “piggyback” on the rates/prices and terms and conditions in Volusia Contract, all attachments, addenda, unit prices, and all other applicable documents except as otherwise provided herein.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Incorporation by Reference. The foregoing WHEREAS clauses are incorporated by reference.

2. Amendment. This Agreement to “piggyback” services hereby amends and supplements the terms of the Volusia Contract. The City of Daytona Beach Shores and its equivalent staff and address shall be substituted for the County of Volusia, Florida and its staff and addresses, as may be required in the awarded County of Volusia Contract. In the event of a conflict between the terms of the County of Volusia Contract and terms of this Agreement to “piggyback”, the terms of this Agreement to “piggyback” shall prevail.

3. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the City within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency’s custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter 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 for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- (d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all

applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

- (e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**DAYTONA BEACH SHORES CITY HALL
OFFICE OF THE CITY CLERK
2990 SOUTH ATLANTIC AVENUE
DAYTONA BEACH SHORES, FLORIDA 32118
(386) 763-5353**

4. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the City harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Volusia County Circuit Court on an expedited basis to enforce the requirements of this section.

5. Compliance/Consistency with Section 768.28, Fla. Stat. Any indemnification or agreement to defend or hold harmless by City specified in the Volusia Contract shall not be construed as a waiver of City's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by County in the Volusia Contract in derogation hereof shall be void and of no force or effect.

6. Non-appropriation. City's performance and obligation to pay under this Agreement is contingent upon an appropriation during the City's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the City Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the City subject to the City paying all invoices for services rendered during the period the Agreement was funded by appropriations.

7. E-Verify Compliance. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Contractor is registered with and uses the E-

Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.

8. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with City for goods or services of any amount may be terminated at the option of City if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of City if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

9. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Volusia County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

10. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fee and costs.

11. Additional Terms. Notwithstanding any of other provision to the contrary, the parties agree as follows:

A. None.

ECONOMY ELECTRIC CO.
VOLUSIA COUNTY PIGGYBACK AGREEMENT
SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

ECONOMY ELECTRIC COMPANY

Print Name: _____

Title: _____

CITY OF DAYTONA BEACH SHORES:

ATTESTED BY:

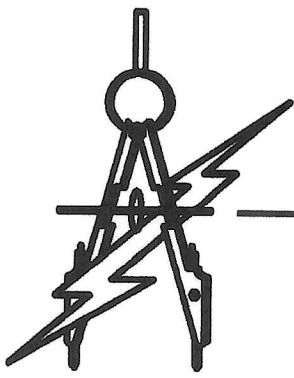
Print Name: _____

By: Cheri Schwab, City Clerk

Title: _____

APPROVED AS TO FORM

Gretchen R. H. "Becky" Vose,
City Attorney



(386) 252-0573
Fax (386) 239-0721

EXHIBIT "A"
Economy Electric Company

Engineers	Electrical	Contractors
EC0002188 PE0043445 EB0000287	538 West Street Daytona Beach Florida 32114	EC0002189 EC0000709

May 11, 2023

City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118

Attn: Stewart Cruz
Community Services Director

Dear Mr. Cruz

Economy Electric Company would like to extend our current pricing with Volusia County to City of Daytona Beach Shores based on the attached Volusia County Master Agreement No. 815 70350-1 through December 1, 2024.

Please let me know if you need more information.

Sincerely,

Joseph Wiggins
Secretary

JPW/cac



Master Agreement

NO. 815 70350 - 1

TERM: 2021-12-01 to 2024-12-01

Page 1 of 6

Date Issued: 11/10/2021

Vendor contact: Name: Ann Carter Phone: 386-252-0573 Ext.: E-mail: anncarter@economyelectricco.com		County contact: Name: KAMRON GARDNER Phone: 386-248-1760 Ext.: E-mail: kdgardner@volusia.org		Bill To: County of Volusia AS REQUIRED BY USING DEPARTMENT VOLUSIA COUNTY, FL 32720	
Vendor Name: LA TOUR ENTERPRIZES INC ECONOMY ELECTRIC COMPANY 538 WEST STREET DAYTONA BEACH, FL 32114		Vendor No. ECE21190000		Ship To: AS REQUIRED BY USING DEPARTMENT VOLUSIA COUNTY, FL 32720	
Solicitation Number: 21-B-165MC Award Date: 2021-11-02 Award Authorization: COUNCIL		Purchasing MEGHAN CHESTNUT Phone: 386-626-6624 Ext: 16624 E-mail: mchestnut@volusia.org Payment Terms: Net 45 Days, FOB Dest, Freight allowed			
Document Description: Electrical Services MUST contact Facilities PRIOR to use					

Line Item	Commodity Code	Unit	Description	Unit Price or Contract Amount
1	91082	MNHR	Journeyman Electrician regular hours (7 am - 5pm) in accordance with 21-B-165MC. Using Department MUST contract Facility Management PRIOR to use.	60.000000
2	91082	MNHR	Journeyman Electrician after hours (5 pm - 7 am) in accordance with 21-B-165MC. Using Department MUST contract Facility Management PRIOR to use.	90.000000
3	91082	MNHR	Journeyman Electrician weekends and County Holidays in accordance with 21-B-165MC. Using Department MUST contract Facility Management PRIOR to use.	90.000000
4	91082	MNHR	Apprentice Electrician regular hours (7 am - 5pm) in accordance with 21-B-165MC. Using Department MUST contract Facility Management PRIOR to use.	30.000000
5	91082	MNHR	Apprentice Electrician after hours (5 pm - 7 am) in accordance with 21-B-165MC. Using Department MUST contract Facility Management PRIOR to use.	45.000000
6	91082	MNHR	Apprentice Electrician weekends and County Holidays in accordance with 21-B-165MC. Using Department MUST contract Facility Management PRIOR to use.	45.000000

A delivery order is required for the release of items / services from the referenced Master Agreement. If a solicitation number is referenced then the terms and conditions of said solicitation become part of the Master Agreement. Deviation from prices stated is not permitted without a signed corrected Change Order.

If vendor terms and conditions conflict with County of Volusia Terms and Conditions, the County's Terms and Conditions prevail. See reverse side for terms and conditions.

Purchase Order (PO) or Master Agreement (MA) Terms and Conditions

Providing any good or service constitutes acceptance of this entire PO or MA without exception.
In the event this document is issued based on a solicitation or quote, the terms and conditions of the solicitation or quote prevail.

Acceptance. Products/Services purchased as result of this PO or MA may be tested for compliance with specifications. Items delivered not in conformance with the specifications may be rejected and returned at the Provider's expense. Those items and items not delivered by the delivery date specified in the accepted offer and/or PO or MA may be purchased on the open market.

Cancellation of Order. A request by either party to PO to cancel the order at no cost.

Delivery. Title and risk of loss shall pass when items have been received, inspected, and accepted by County of Volusia ("County"). All associated shipping, insurance, and other related costs shall be borne by Provider.

Discontinued. Provider shall give County 30 (thirty) days advance notice of a discontinued item(s) so that County can purchase additional quantities of discontinued item(s). County must give written approval of replacement(s) if they exceed previous price or fail to meet quality, form, fit, or function of the discontinued item. Time is of the essence regarding Performance of Services and this PO or MA can be terminated by the County for convenience, non-appropriation of funds, or non-performance.

Disputes. If such dispute arises under this PO or MA and is not resolved informally by the parties within five (5) business days, the party bringing a claim ("Disputing Party") shall deliver to the first level representative of the other party a written statement ("Dispute Notice") describing the dispute. If the respective representatives cannot resolve the dispute within ten (10) days, the dispute shall be escalated through two higher levels of management. If the dispute has not been resolved within 25 (twenty-five) calendar days after delivery of the Disputing Party's notice, either party may give written notice to the other party declaring the resolution process terminated and pursue other legal recourse or initiate formal non-binding mediation before a single mediator, which shall be completed within 30 (thirty) days of initiation, in accordance with rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700, et seq., of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize such termination remedies and commence litigation in a court of competent jurisdiction.

Compliance with FEMA 2 CFR 200.318-326 and Appendix II Contract Provisions. This Agreement and the products/services provided may be utilized in the event of declared State/Federal Emergency and Contractors shall be prepared to comply with the requirements of the FEMA Super Circular CFR 200.318-326 and Appendix II Contract Provisions as amended. These documents can be found on the Internet at: <https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1-sec200-318>

Governing Law/Jurisdiction/Venue. This PO or MA shall be governed by the laws of the State of Florida and venue for any litigation arising from this PO or MA shall be in the County of Volusia, Florida, and any trial shall be non-jury. Provider shall comply with all applicable laws and regulations.

Insurance. For goods and services delivered or performed by Provider on County premises, Provider certifies it maintains comprehensive general liability insurance and auto insurance in the amounts identified in the solicitation and/or contract and any amendments thereto pertaining to this PO or MA, or from an A.M. Best "A-" or better rated insurance firm authorized by the State of Florida Insurance Commissioner. The County reserves the right to require the "County of Volusia" be named as additional insured for projects when deemed necessary. For services performed off County premises and goods delivered by third party carriers, the Provider shall use such carriers that maintain such insurance coverage as set forth above.

Intellectual Property. Provider agrees to protect, defend, indemnify, and save the County, its agents, officials, including elected officials, and employees of the County harmless from and against any and all claims, demands, actions, and causes of action which may arise asserting that a copyright, trademark, trade secret, or patent ("Intellectual Property"), as provided under this PO or MA, infringes or misappropriates any third party's Intellectual Property. If Provider must pay a third party any license, royalty, or other such usage fee in order to deliver the item(s) under this PO or MA, such third party and usage fee must be specified in the Provider's offer to sell to the County.

Indemnification. The Contractor shall indemnify, defend and hold harmless the County and its employees, officers, elected and appointed officials, agents, attorneys, representatives, volunteers, divisions, departments, districts, authorities, and associated entities from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees, arising out of or resulting from the performance of this Agreement to the extent that any such claim, damage, loss and expense is caused by any negligent act or omission of the Contractor, anyone directly or indirectly employed by Contractor.

Modification & Assignment. County may unilaterally change, at no additional cost, the quantity and receiving point within the County for items not yet shipped. All other items must be mutually agreed upon in writing. County is not required to pay for defective items, back-orders, late deliveries, those quantities exceeding the PO or MA quantity, or items shipped at a higher price than stated on the PO or MA. Neither this PO or MA nor any interest herein shall be assigned, transferred, or encumbered by Provider except as authorized in writing by the County.

Notices. All notices given by one party to the other party under this PO or MA shall be delivered to the receiving party's address set forth on this PO either by hand, qualified courier, or e-mail and shall be deemed received the day after it is transmitted. For the County, it shall be addressed to the Purchasing and Contracts Department, 123 West Indiana Avenue, 3rd Floor, Deland, Florida, 32720 or purchasing@volusia.org.

No Waiver. Except as expressly set forth herein, no failure or delay on the part of County in exercising any right, power, or remedy hereunder shall operate as or be deemed a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy preclude any other or further exercise thereof, or the exercise of any other right, power, or remedy.

Order of Precedence. In the event of conflict between this PO or a Master Agreement (MA), the originating Volusia County contract and amendments thereto shall be controlling. This control shall pertain to all specifications and scopes of work included in the originating Volusia County contract and any amendments thereto.

Payment. Except for construction services, which shall be paid pursuant to the Florida Prompt Payment Act, County shall pay Provider within 45 (forty-five) days after receipt of an accurate and undisputed invoice, unless the County accepts a prompt payment discount from Provider and the goods or services are not defective. Invoice, packing slip, delivery receipt, order acknowledgement, and correspondence shall clearly indicate the PO or MA number. Any additional or different terms and conditions on Provider's documents shall be considered null and void. The County may deduct amounts it is due from Provider's payment or not pay disputed invoices until such dispute is resolved. Nothing in this PO or MA shall create any obligation on the part of the County to pay directly to any subcontractor of Provider any monies due to such subcontractor or claims of such subcontractor for amounts owed by Provider to subcontractor for goods or services provided under this PO or MA.

Sovereign Immunity. The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of the Agreement, Master Agreement, and/or this Purchase Order to the contrary, nothing in any such documents shall be deemed as a waiver of immunity or the limitations of liability of the County beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the County for damages regardless of the number or nature of claims in tort, equity, or contract shall not exceed the dollar amount set by the legislature for tort. Nothing in the Agreement, Master Agreement, or this Purchase Order shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

Taxes. County is exempt from Manufacturers' Federal Excise Tax (Exemption# 49-6000-885) and Florida sales tax (Exemption# 85-8012622393C-9). Certificates are available at www.volusia.org/purchasing. After accessing the foregoing website, select, "Doing Business with Volusia County" and "Consumer Certificate of Tax Exemption" from the available menu screens to see a copy of the certificates.

Termination for Convenience. The County may cancel the PO or MA in whole or part when it is in the best interest of the County with thirty (30) days notice.

UCC. In addition to any rights or remedies contained in this P.O., each party shall have rights, duties, and remedies available through the Uniform Commercial Code (UCC).

Warranty. Provider warrants that all Work or Services performed under this PO or MA shall be performed in a good and competent workmanlike manner to the satisfaction of the County, and materials shall be of good quality (unless otherwise stated on PO or MA), and free from defects and pursuant to specifications and requirements of the contract related to this PO or MA.



Master Agreement

NO. 815 70350 - 1

TERM: 2021-12-01 to 2024-12-01

Page 3 of 6

Date Issued: 11/10/2021

Line Item	Commodity Code	Unit	Description	Unit Price or Contract Amount
7	91082	HOUR	50' 2-man bucket truck with operator regular hours (7 am - 5 pm) in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	95.000000
8	91082	HOUR	50' 2-man bucket truck with operator after hours (5 pm - 7 am) in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	125.000000
9	91082	HOUR	50' 2-man bucket truck with operator weekends and County Holidays in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	125.000000
10	91082	HOUR	35' 2-man bucket truck with operator regular hours (7 am - 5 pm) in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	95.000000
11	91082	HOUR	35' 2-man bucket truck with operator after hours (5 pm - 7 am) in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	125.000000
12	91082	HOUR	35' 2-man bucket truck with operator weekends and County Holidays in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	125.000000
13	91082	HOUR	65' 2-man bucket truck with operator rental cost, regular hours (7 am- 5 pm) in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	95.000000
14	91082	HOUR	65' 2-man bucket truck with operator rental, after hours (5 pm - 7 am), weekends and County Holidays, in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	125.000000
15	91082	MNHR	Electrical Supervisor regular hours (7 am- 5 pm) in accordance with 21-B-165MC. Using Department MUST contract Facility Management PRIOR to use.	60.000000
16	91082	MNHR	Electrical Supervisor after hours (5 pm - 7 am) in accordance with 21-B-165MC. Using Department MUST contract Facility Management PRIOR to use.	90.000000
17	91082	MNHR	Electrical Supervisor weekends and County Holidays in accordance with 21-B-165MC. Using Department MUST contract Facility Management PRIOR to use.	90.000000
18	91082	EA	OEM Parts Markup 10% in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	0.000000
19	91082	EA	Crane Rental Markup 10% in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	0.000000

A delivery order is required for the release of items / services from the referenced Master Agreement. If a solicitation number is referenced then the terms and conditions of said solicitation become part of the Master Agreement. Deviation from prices stated is not permitted without a signed corrected Change Order.

If vendor terms and conditions conflict with County of Volusia Terms and Conditions, the County's Terms and Conditions prevail. See reverse side for terms and conditions.

Purchase Order (PO) or Master Agreement (MA) Terms and Conditions

Providing any good or service constitutes acceptance of this entire PO or MA without exception.
In the event this document is issued based on a solicitation or quote, the terms and conditions of the solicitation or quote prevail.

Acceptance. Products/Services purchased as result of this PO or MA may be tested for compliance with specifications. Items delivered not in conformance with the specifications may be rejected and returned at the Provider's expense. Those items and items not delivered by the delivery date specified in the accepted offer and/or PO or MA may be purchased on the open market.

Cancellation of Order. A request by either party to PO to cancel the order at no cost.

Delivery. Title and risk of loss shall pass when items have been received, inspected, and accepted by County of Volusia ("County"). All associated shipping, insurance, and other related costs shall be borne by Provider.

Discontinued. Provider shall give County 30 (thirty) days advance notice of a discontinued item(s) so that County can purchase additional quantities of discontinued item(s). County must give written approval of replacement(s) if they exceed previous price or fail to meet quality, form, fit, or function of the discontinued item. Time is of the essence regarding Performance of Services and this PO or MA can be terminated by the County for convenience, non-appropriation of funds, or non-performance.

Disputes. If such dispute arises under this PO or MA and is not resolved informally by the parties within five (5) business days, the party bringing a claim ("Disputing Party") shall deliver to the first level representative of the other party a written statement ("Dispute Notice") describing the dispute. If the respective representatives cannot resolve the dispute within ten (10) days, the dispute shall be escalated through two higher levels of management. If the dispute has not been resolved within 25 (twenty-five) calendar days after delivery of the Disputing Party's notice, either party may give written notice to the other party declaring the resolution process terminated and pursue other legal recourse or initiate formal non-binding mediation before a single mediator, which shall be completed within 30 (thirty) days of initiation, in accordance with rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700, et seq., of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize such termination remedies and commence litigation in a court of competent jurisdiction.

Compliance with FEMA 2 CFR 200.318-326 and Appendix II Contract Provisions. This Agreement and the products/services provided may be utilized in the event of declared State/Federal Emergency and Contractors shall be prepared to comply with the requirements of the FEMA Super Circular CFR 200.318-326 and Appendix II Contract Provisions as amended. These documents can be found on the Internet at: <https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1-sec200-318>

Governing Law/Jurisdiction/Venue. This PO or MA shall be governed by the laws of the State of Florida and venue for any litigation arising from this PO or MA shall be in the County of Volusia, Florida, and any trial shall be non-jury. Provider shall comply with all applicable laws and regulations.

Insurance. For goods and services delivered or performed by Provider on County premises, Provider certifies it maintains comprehensive general liability insurance and auto insurance in the amounts identified in the solicitation and/or contract and any amendments thereto pertaining to this PO or MA, or from an A.M. Best "A-" or better rated insurance firm authorized by the State of Florida Insurance Commissioner. The County reserves the right to require the "County of Volusia" be named as additional insured for projects when deemed necessary. For services performed off County premises and goods delivered by third party carriers, the Provider shall use such carriers that maintain such insurance coverage as set forth above.

Intellectual Property. Provider agrees to protect, defend, indemnify, and save the County, its agents, officials, including elected officials, and employees of the County harmless from and against any and all claims, demands, actions, and causes of action which may arise asserting that a copyright, trademark, trade secret, or patent ("Intellectual Property"), as provided under this PO or MA, infringes or misappropriates any third party's Intellectual Property. If Provider must pay a third party any license, royalty, or other such usage fee in order to deliver the item(s) under this PO or MA, such third party and usage fee must be specified in the Provider's offer to sell to the County.

Indemnification. The Contractor shall indemnify, defend and hold harmless the County and its employees, officers, elected and appointed officials, agents, attorneys, representatives, volunteers, divisions, departments, districts, authorities, and associated entities from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees, arising out of or resulting from the performance of this Agreement to the extent that any such claim, damage, loss and expense is caused by any negligent act or omission of the Contractor, anyone directly or indirectly employed by Contractor.

Modification & Assignment. County may unilaterally change, at no additional cost, the quantity and receiving point within the County for items not yet shipped. All other items must be mutually agreed upon in writing. County is not required to pay for defective items, back-orders, late deliveries, those quantities exceeding the PO or MA quantity, or items shipped at a higher price than stated on the PO or MA. Neither this PO or MA nor any interest herein shall be assigned, transferred, or encumbered by Provider except as authorized in writing by the County.

Notices. All notices given by one party to the other party under this PO or MA shall be delivered to the receiving party's address set forth on this PO either by hand, qualified courier, or e-mail and shall be deemed received the day after it is transmitted. For the County, it shall be addressed to the Purchasing and Contracts Department, 123 West Indiana Avenue, 3rd Floor, DeLand, Florida, 32720 or purchasing@volusia.org.

No Waiver. Except as expressly set forth herein, no failure or delay on the part of County in exercising any right, power, or remedy hereunder shall operate as or be deemed a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy preclude any other or further exercise thereof, or the exercise of any other right, power, or remedy.

Order of Precedence. In the event of conflict between this PO or a Master Agreement (MA), the originating Volusia County contract and amendments thereto shall be controlling. This control shall pertain to all specifications and scopes of work included in the originating Volusia County contract and any amendments thereto.

Payment. Except for construction services, which shall be paid pursuant to the Florida Prompt Payment Act, County shall pay Provider within 45 (forty-five) days after receipt of an accurate and undisputed invoice, unless the County accepts a prompt payment discount from Provider and the goods or services are not defective. Invoice, packing slip, delivery receipt, order acknowledgement, and correspondence shall clearly indicate the PO or MA number. Any additional or different terms and conditions on Provider's documents shall be considered null and void. The County may deduct amounts it is due from Provider's payment or not pay disputed invoices until such dispute is resolved. Nothing in this PO or MA shall create any obligation on the part of the County to pay directly to any subcontractor of Provider any monies due to such subcontractor or claims of such subcontractor for amounts owed by Provider to subcontractor for goods or services provided under this PO or MA.

Sovereign Immunity. The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of the Agreement, Master Agreement, and/or this Purchase Order to the contrary, nothing in any such documents shall be deemed as a waiver of immunity or the limitations of liability of the County beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the County for damages regardless of the number or nature of claims in tort, equity, or contract shall not exceed the dollar amount set by the legislature for tort. Nothing in the Agreement, Master Agreement, or this Purchase Order shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

Taxes. County is exempt from Manufacturers' Federal Excise Tax (Exemption# 49-6000-885) and Florida sales tax (Exemption# 85-6012622393C-9). Certificates are available at www.volusia.org/purchasing. After accessing the foregoing website, select, "Doing Business with Volusia County" and "Consumer Certificate of Tax Exemption" from the available menu screens to see a copy of the certificates.

Termination for Convenience. The County may cancel the PO or MA in whole or part when it is in the best interest of the County with thirty (30) days notice.

UCC. In addition to any rights or remedies contained in this P.O., each party shall have rights, duties, and remedies available through the Uniform Commercial Code (UCC).

Warranty. Provider warrants that all Work or Services performed under this PO or MA shall be performed in a good and competent workmanlike manner to the satisfaction of the County, and materials shall be of good quality (unless otherwise stated on PO or MA), and free from defects and pursuant to specifications and requirements of the contract related to this PO or MA.



Master Agreement

NO. 815 70350 - 1

TERM: 2021-12-01 to 2024-12-01

Page 5 of 6

Date Issued: 11/10/2021

Line Item	Commodity Code	Unit	Description	Unit Price or Contract Amount
20	91082	EA	Subcontractor Markup 10% in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	0.000000
21	91082	EA	Actual cost of permit fees in accordance with 21-B-165MC. Using Department MUST contact Facility Management PRIOR to use.	0.000000

Pam Wilsky, CPPO, CPPB
Purchasing & Contracts Director

County of Volusia
Sales Tax Exemption Number
85-8012622393C-9

Remainder of page is blank

A delivery order is required for the release of items / services from the referenced Master Agreement. If a solicitation number is referenced then the terms and conditions of said solicitation become part of the Master Agreement. Deviation from prices stated is not permitted without a signed corrected Change Order.

If vendor terms and conditions conflict with County of Volusia Terms and Conditions, the County's Terms and Conditions prevail. See reverse side for terms and conditions.

Purchase Order (PO) or Master Agreement (MA) Terms and Conditions

Providing any good or service constitutes acceptance of this entire PO or MA without exception.
In the event this document is issued based on a solicitation or quote, the terms and conditions of the solicitation or quote prevail.

Acceptance. Products/Services purchased as result of this PO or MA may be tested for compliance with specifications. Items delivered not in conformance with the specifications may be rejected and returned at the Provider's expense. Those items and items not delivered by the delivery date specified in the accepted offer and/or PO or MA may be purchased on the open market.

Cancellation of Order. A request by either party to PO to cancel the order at no cost.

Delivery. Title and risk of loss shall pass when items have been received, inspected, and accepted by County of Volusia ("County"). All associated shipping, insurance, and other related costs shall be borne by Provider.

Discontinued. Provider shall give County 30 (thirty) days advance notice of a discontinued item(s) so that County can purchase additional quantities of discontinued item(s). County must give written approval of replacement(s) if they exceed previous price or fail to meet quality, form, fit or function of the discontinued item. Time is of the essence regarding Performance of Services and this PO or MA can be terminated by the County for convenience, non-appropriation of funds, or non-performance.

Disputes. If such dispute arises under this PO or MA and is not resolved informally by the parties within five (5) business days, the party bringing a claim ("Disputing Party") shall deliver to the first level representative of the other party a written statement ("Dispute Notice") describing the dispute. If the respective representatives cannot resolve the dispute within ten (10) days, the dispute shall be escalated through two higher levels of management. If the dispute has not been resolved within 25 (twenty-five) calendar days after delivery of the Disputing Party's notice, either party may give written notice to the other party declaring the resolution process terminated and pursue other legal recourse or initiate formal non-binding mediation before a single mediator, which shall be completed within 30 (thirty) days of initiation, in accordance with rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700, et seq., of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize such termination remedies and commence litigation in a court of competent jurisdiction.

Compliance with FEMA 2 CFR 200.318-326 and Appendix II Contract Provisions. This Agreement and the products/services provided may be utilized in the event of declared State/Federal Emergency and Contractors shall be prepared to comply with the requirements of the FEMA Super Circular CFR 200.318-326 and Appendix II Contract Provisions as amended. These documents can be found on the Internet at: <https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1-sec200-318>

Governing Law/Jurisdiction/Venue. This PO or MA shall be governed by the laws of the State of Florida and venue for any litigation arising from this PO or MA shall be in the County of Volusia, Florida, and any trial shall be non-jury. Provider shall comply with all applicable laws and regulations.

Insurance. For goods and services delivered or performed by Provider on County premises, Provider certifies it maintains comprehensive general liability insurance and auto insurance in the amounts identified in the solicitation and/or contract and any amendments thereto pertaining to this PO or MA, or from an A.M. Best "A-" or better rated insurance firm authorized by the State of Florida Insurance Commissioner. The County reserves the right to require the "County of Volusia" be named as additional insured for projects when deemed necessary. For services performed off County premises and goods delivered by third party carriers, the Provider shall use such carriers that maintain such insurance coverage as set forth above.

Intellectual Property. Provider agrees to protect, defend, indemnify, and save the County, its agents, officials, including elected officials, and employees of the County harmless from and against any and all claims, demands, actions, and causes of action which may arise asserting that a copyright, trademark, trade secret, or patent ("Intellectual Property"), as provided under this PO or MA, infringes or misappropriates any third party's Intellectual Property. If Provider must pay a third party any license, royalty, or other such usage fee in order to deliver the item(s) under this PO or MA, such third party and usage fee must be specified in the Provider's offer to sell to the County.

Indemnification. The Contractor shall indemnify, defend and hold harmless the County and its employees, officers, elected and appointed officials, agents, attorneys, representatives, volunteers, divisions, departments, districts, authorities, and associated entities from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees, arising out of or resulting from the performance of this Agreement to the extent that any such claim, damage, loss and expense is caused by any negligent act or omission of the Contractor, anyone directly or indirectly employed by Contractor.

Modification & Assignment. County may unilaterally change, at no additional cost, the quantity and receiving point within the County for items not yet shipped. All other items must be mutually agreed upon in writing. County is not required to pay for defective items, back-orders, late deliveries, those quantities exceeding the PO or MA quantity, or items shipped at a higher price than stated on the PO or MA. Neither this PO or MA nor any interest herein shall be assigned, transferred, or encumbered by Provider except as authorized in writing by the County.

Notices. All notices given by one party to the other party under this PO or MA shall be delivered to the receiving party's address set forth on this PO either by hand, qualified courier, or e-mail and shall be deemed received the day after it is transmitted. For the County, it shall be addressed to the Purchasing and Contracts Department, 123 West Indiana Avenue, 3rd Floor, Deland, Florida, 32720 or purchasing@volusia.org.

No Waiver. Except as expressly set forth herein, no failure or delay on the part of County in exercising any right, power, or remedy hereunder shall operate as or be deemed a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy preclude any other or further exercise thereof, or the exercise of any other right, power, or remedy.

Order of Precedence. In the event of conflict between this PO or a Master Agreement (MA), the originating Volusia County contract and amendments thereto shall be controlling. This control shall pertain to all specifications and scopes of work included in the originating Volusia County contract and any amendments thereto.

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Sovereign Immunity. The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 766.28, Florida Statutes. Notwithstanding anything set forth in any section of the Agreement, Master Agreement, and/or this Purchase Order to the contrary, nothing in any such documents shall be deemed as a waiver of immunity or the limitations of liability of the County beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the County for damages regardless of the number or nature of claims in tort, equity, or contract shall not exceed the dollar amount set by the legislature for tort. Nothing in the Agreement, Master Agreement, or this Purchase Order shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

Taxes. County is exempt from Manufacturers' Federal Excise Tax (Exemption# 49-6000-805) and Florida sales tax (Exemption# 65-80120223930-9). Certificates are available at www.volusia.org/purchasing. After accessing the foregoing website, select, "Doing Business with Volusia County" and "Consumer Certificate of Tax Exemption" from the available menu screens to see a copy of the certificates.

Termination for Convenience. The County may cancel the PO or MA in whole or part when it is in the best interest of the County with thirty (30) days notice.

UCC. In addition to any rights or remedies contained in this P.O., each party shall have rights, duties, and remedies available through the Uniform Commercial Code (UCC).

Warranty. Provider warrants that all Work or Services performed under this PO or MA shall be performed in a good and competent workmanlike manner to the satisfaction of the County, and materials shall be of good quality (unless otherwise stated on PO or MA), and free from defects and pursuant to specifications and requirements of the contract related to this PO or MA.

Date: 11/02/2021		AGENDA ITEM			Item: C	
☐ Ordinance		☐ Resolution		☐ Budget Resolution		☒ Other
County Goals						
☐	Thriving Communities	☐	Economic & Financial Vitality	☐	Excellence In Government	☒ NA
Department: Business Services Division: Facility Management						
Subject: Award of Agreements to LaTour Enterprizes, Inc., d/b/a Economy Electric Company and Palmetto Electric, Inc., for Electrical Services, 21-B-165MC.						
Jeaniene Jennings Director Business Services  Department Approval		Pamela Wilsky  Approved in Accordance with Purchasing Policies and Procedures		Legal Heather Wallace Assistant County Attorney  Approved as to Form and Legality		County Manager's Office Ryan Ossowski Chief Financial Officer 
James Corbett Director Facilities Management <i>James Corbett</i> Division Approval		Aaron Van Kleeck  Approved as to Budget Requirements				
Council Action: Approved as Recommended						
Modification:						
Fund Number(s):		Description:			Amount:	
999 Various		Estimated Annual Expenditure: Various Divisions			\$200,000.00	
Total Item Budget: \$200,000.00						
Staff Contact(s):				Phone:	Ext.	
Jeaniene Jennings				386 736 5935	15789	
James Corbett				386 248 1760	11359	
Summary/Highlights: The County received three (3) responses, one of which was considered non-responsive, as shown on the attached tabulation sheet, to an invitation to bid for electrical services. Staff recommends selection of, and award of agreements to, the lowest responsive and responsible bidders, LaTour Enterprizes, Inc., d/b/a Economy Electric Company, Daytona Beach and Palmetto Electric, Inc., Bunnell, for an initial term of three (3) years with two (2) subsequent one-year renewal options. The estimated annual expenditure is approximately \$200,000.						

A copy of the solicitation (agreement) is attached. Copies of the complete agreements and applicable exhibits, with the same terms and conditions described in the solicitation, are available for review in the purchasing and contracts division.

Recommended Motion: Approval.



COUNTY OF VOLUSIA, FL
RECOMMENDATION OF AWARD

BID NUMBER: 21-B-165MC
BID TITLE: Electrical Services
OPENING DATE/TIME: 9/21/21 ; 3:00 pm

ALL BIDS ACCEPTED BY THE COUNTY OF VOLUSIA ARE SUBJECT TO THE COUNTY'S TERMS AND CONDITIONS. ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY THE BIDDERS ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. BID DOCUMENTS FROM THE VENDORS LISTED HEREIN ARE THE ONLY BIDS RECEIVED TIMELY AS OF THE OPENING DATE AND TIME. ALL OTHER BID DOCUMENTS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE.

Description	Response 1	Response 2	*Response 3
	LaTour Enterprizes, Inc., d/b/a Economy Electric Company 538 West Street, Daytona Beach 32114 386-252-0573 ; joewiggins@economyelectricco.com	Palmetto Electric, Inc. 1150 West Moody Blvd., Unit 101, Bunnell, FL 32110 386-437-3068 ; frank@palmettoelectricinc.com	*Commercial Lighting & Electrical Inc.
Regular Hours (7 a.m. to 5 p.m.)			
Journeyman Electrician	\$50.00	\$60.00	
Apprentice Electrician	\$30.00	\$30.00	
Electrical Supervisor	\$60.00	No Bid	
Electrical Survey Provider	No Bid	No Bid	
50' 2-Man Bucket Truck with operator	\$95.00	\$120.00	
35' 2-Man Bucket Truck with operator	\$95.00	\$120.00	
65' 2-Man Bucket Truck with operator	\$95.00	10%	
85' 2-Man Bucket Truck with operator	No Bid	10%	
After Hours (5 p.m. to 7 a.m.)			
Journeyman Electrician	\$90.00	\$90.00	
Apprentice Electrician	\$45.00	\$45.00	
Electrical Supervisor	\$90.00	No Bid	
Electrical Survey Provider	No Bid	No Bid	
50' 2-Man Bucket Truck with operator	\$125.00	\$180.00	
35' 2-Man Bucket Truck with operator	\$125.00	\$180.00	
65' 2-Man Bucket Truck with operator	\$125.00	10%	
85' 2-Man Bucket Truck with operator	No Bid	10%	
Weekends and County Holidays			
Journeyman Electrician	\$90.00	\$90.00	
Apprentice Electrician	\$45.00	\$45.00	
Electrical Supervisor	\$90.00	No Bid	
Electrical Survey Provider	No Bid	No Bid	
50' 2-Man Bucket Truck with operator	\$125.00	\$180.00	
35' 2-Man Bucket Truck with operator	\$125.00	\$180.00	
65' 2-Man Bucket Truck with operator	\$125.00	10%	
85' 2-Man Bucket Truck with operator	No Bid	10%	
Percentage Markup			
OEM Parts Markup %	10%	15%	
Crane Rental Markup %	10%	10%	
Subcontractor Markup %	10%	10%	

Opened by: Meghan Chestnut, Purchasing Analyst & Heidi Ott, Purchasing Analyst II

Tabulation by: Meghan Chestnut, Purchasing Analyst

Recommendation of Award: Economy Electric Company, and Palmetto Electric, Inc.

County Council Meeting Date: 11/2/2021

Posted: 10/06/2021

*Commercial Lighting & Electrical Inc., deemed non-responsive due to failure to submit required documents.

Reviewed and Approved by:

Pamela Wilsky

Pam Wilsky, NIGP-CPP, CPBO, CPPB
Director of Purchasing and Contracts



CITY COMMISSION AGENDA MEMORANDUM MAY 23, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Access Agreement & Construction License For Seawall Construction: Opus Condominium, 2071 S. Atlantic Avenue

SYNOPSIS:

On February 28, 2023, the City Commission of Daytona Beach Shores approved a condo - city partnership concept for seawall reconstruction on city beach access properties that experienced seawall failure as a result of hurricanes Ian and Nicole. The City Commission also directed staff to work with the City Attorney's office to provide the instruments needed to realize this partnership. Attached is an Agreement Granting a Temporary Ingress, Egress and Construction License For Seawall Construction document drafted by the City Attorney and executed by the Opus Condominium, located at 2071 S. Atlantic Avenue. Approval of the agreement/license will allow the property owner access to the public beach access to construct a common seawall on the city property contiguous with the condo's seawall. The condo has submitted a Florida Department of Environmental Protection Permit for construction of the condo's seawall and will amend to incorporate the city's portion of the seawall system.

Highlights of the agreement/license include:

1. City grants the Condo authority to access and build a common contiguous seawall on the beach access property.
2. Condo will build the seawall at its own cost.
3. Condo will provide proof of adequate funds to finance the project.
4. Condo will provide adequate liability insurance by listing the City as an additional named insured to cover indemnification obligations in an amount not less than \$1,000,000.
5. Expiration date shall be 10 days after completion of the seawall or December 31, 2023, whichever comes first.

FISCAL IMPACT STATEMENT:

No fiscal impact.

BACKGROUND:

LEGAL REVIEW:**RECOMMENDATION:**

Approval as presented.

SUGGESTED MOTION:

Approval of the Access Agreement and Construction License for Seawall Construction to allow Opus Condominium to build a contiguous seawall on the 2071 S. Atlantic Avenue Daytona Beach Shores Public Beach Access.

- ATTACHMENT:**
1. Public Beach Access Damage-2071 S. Atlantic Ave-Opus
 2. EXHIBIT A-Legal Description of Seawall Area 2071 S. Atlantic Ave-Opus
 3. EXHIBIT B-Legal Description of License Area 2071 S. Atlantic Ave-Opus

Public Beach Access Damage: 2071 S. Atlantic Avenue

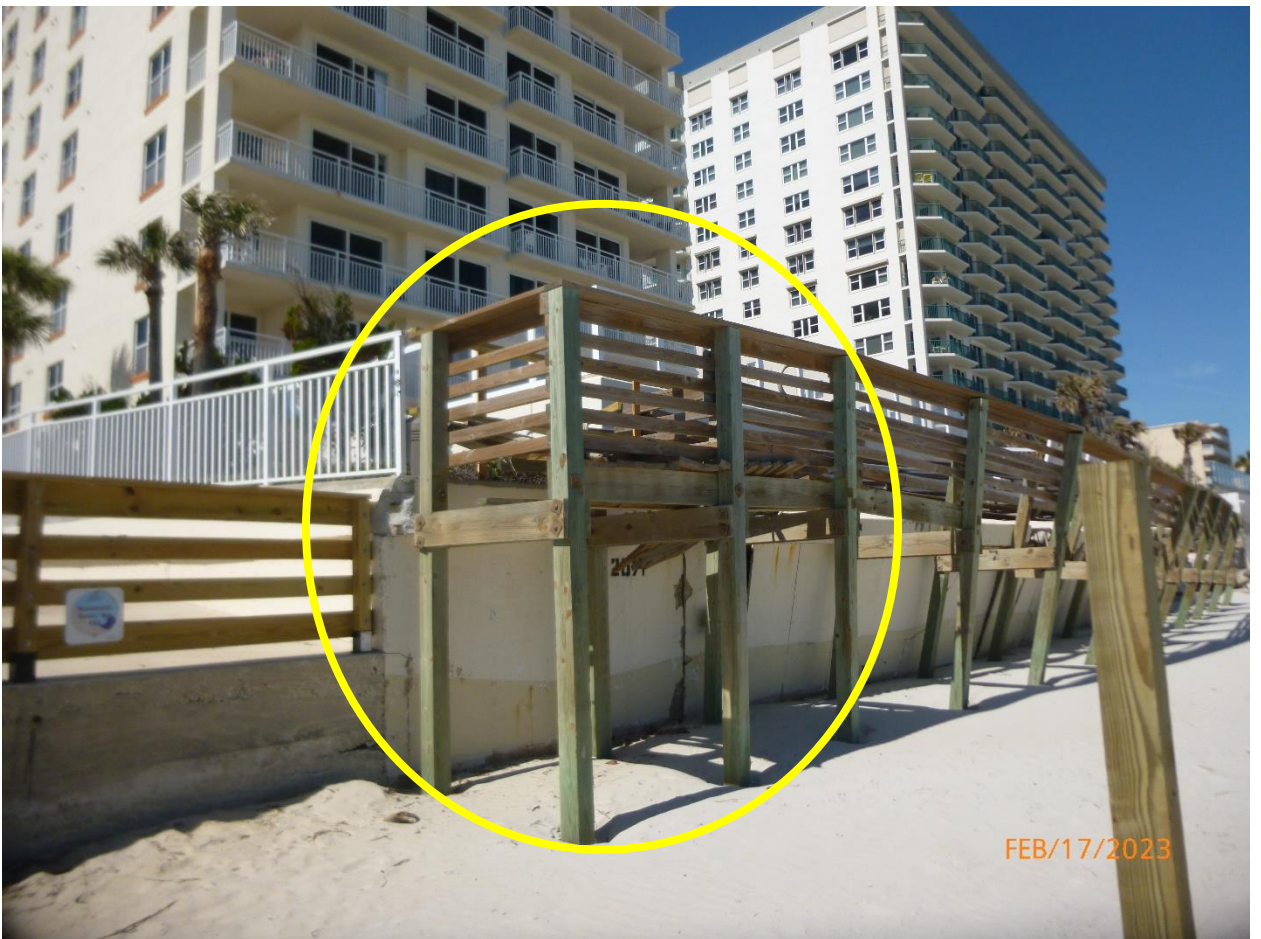


EXHIBIT A

(2071 S. Atlantic Avenue Seawall Area)

LEGAL DESCRIPTION

THE EASTERLY 70 FEET OF THE FOLLOWING:

A PARCEL OF LAND BEING THE SOUTHERLY 8.00 FEET OF LOT 1, BLOCK 1, MELINDA COOKE'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 1, PAGE 93, ALSO RECORDED IN MAP BOOK 12, PAGE 47 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, TOGETHER WITH UNPLATTED LANDS LAYING EASTERLY AND ADJACENT TO SAID LOT 1 IN SECTION 15, TOWNSHIP 15 SOUTH, RANGE 33 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 1, BLOCK 1, OF SAID MELINDA COOKE'S SUBDIVISION AS A POINT OF BEGINNING; RUN THENCE SOUTH 66 DEGREES 06 MINUTES 28 SECONDS WEST FOR A DISTANCE OF 250.00 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 1, SAID LINE ALSO BEING THE NORTHERLY RIGHT-OF-WAY LINE OF BROWNING AVENUE (A 30 FOOT RIGHT-OF-WAY), TO THE EASTERLY RIGHT-OF-WAY OF STATE ROAD A-1-A, ALSO KNOWN AS SOUTH ATLANTIC AVENUE (AN 80 FOOT RIGHT-OF-WAY); THENCE NORTH 23 DEGREES 37 MINUTES 45 SECONDS WEST, ALONG SAID EASTERLY RIGHT-OF-WAY, FOR A DISTANCE OF 8.00 FEET; THENCE NORTH 66 DEGREES 06 MINUTES 28 SECONDS EAST, DEPARTING SAID RIGHT-OF-WAY FOR A DISTANCE OF 309.92 FEET; THENCE SOUTH 24 DEGREES 17 MINUTES 28 SECONDS EAST FOR A DISTANCE OF 8.00 FEET TO THE AFORESAID NORTHERLY RIGHT-OF-WAY LINE OF BROWNING AVENUE; THENCE SOUTH 66 DEGREES 06 MINUTES 28 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 60.01 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

(2071 S. Atlantic Avenue Public Beach Access Area)

LEGAL DESCRIPTION

A PARCEL OF LAND BEING THE SOUTHERLY 8.00 FEET OF LOT 1, BLOCK 1, MELINDA COOKE'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 1, PAGE 93, ALSO RECORDED IN MAP BOOK 12, PAGE 47 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, TOGETHER WITH UNPLATTED LANDS LAYING EASTERLY AND ADJACENT TO SAID LOT 1 IN SECTION 15, TOWNSHIP 15 SOUTH, RANGE 33 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 1, BLOCK 1, OF SAID MELINDA COOKE'S SUBDIVISION AS A POINT OF BEGINNING; RUN THENCE SOUTH 66 DEGREES 06 MINUTES 28 SECONDS WEST FOR A DISTANCE OF 250.00 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 1, SAID LINE ALSO BEING THE NORTHERLY RIGHT-OF-WAY LINE OF BROWNING AVENUE (A 30 FOOT RIGHT-OF-WAY), TO THE EASTERLY RIGHT-OF-WAY OF STATE ROAD A-1-A, ALSO KNOWN AS SOUTH ATLANTIC AVENUE (AN 80 FOOT RIGHT-OF-WAY); THENCE NORTH 23 DEGREES 37 MINUTES 45 SECONDS WEST, ALONG SAID EASTERLY RIGHT-OF-WAY, FOR A DISTANCE OF 8.00 FEET; THENCE NORTH 66 DEGREES 06 MINUTES 28 SECONDS EAST, DEPARTING SAID RIGHT-OF-WAY FOR A DISTANCE OF 309.92 FEET; THENCE SOUTH 24 DEGREES 17 MINUTES 28 SECONDS EAST FOR A DISTANCE OF 8.00 FEET TO THE AFORESAID NORTHERLY RIGHT-OF-WAY LINE OF BROWNING AVENUE; THENCE SOUTH 66 DEGREES 06 MINUTES 28 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 60.01 FEET TO THE POINT OF BEGINNING.



CITY COMMISSION AGENDA MEMORANDUM MAY 23, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission
FROM: Lory Irwin, Finance Director
PREPARED BY: Lory Irwin, Finance Director
SUBJECT: Florida Local Government Cybersecurity Grant

SYNOPSIS:

The City of Daytona Beach Shores has been granted the Florida Local Government Cybersecurity Grant, a state-sponsored grant that will provide cybersecurity technical assistance to improve cybersecurity posture and resilience. This is a 12-mos grant. The grant helps assist the city in the services, licensing and/or commodities to enhance its cybersecurity framework to identify and mitigate risks and to protect infrastructure from threats.

More specifics on what the grant will offer the city will be determined once a full assessment has been done. Approval of the grant contract must be accepted by the city before the state can perform the assessment. The grant contract is due May 31, 2023.

FISCAL IMPACT STATEMENT:

This grant has the potential to save the city budgeted monies depending on the assessment and costs associated with that assessment.

BACKGROUND:

The Florida Local Government Cybersecurity Grant is a competitive grant through the State of Florida Department of Management Services for fiscal year 2022-2023. The grant allows for one or more solutions to the city's security operations platform, incident response assistance when requested, and training, technical assistance and support for the capabilities granted.

LEGAL REVIEW:

RECOMMENDATION:

Staff would like commission's approval to go forward with the grant .

SUGGESTED MOTION:

Approved.

- ATTACHMENT:**
1. Award Letter - DMS-22-23-273 - City of Daytona Beach Shores
 2. Grant Agreement - DMS-22-23-273 - City of Daytona Beach Shores

Ron DeSantis, Florida Governor

Pedro Allende, Secretary

James Grant, Florida State Chief Information Officer

Attn: Lory B. Irwin
Finance Director
City of Daytona Beach Shores
2990 S. Atlantic Ave.
Daytona Beach Shores, 32118

Congratulations City of Daytona Beach Shores!

Your application for the Florida Local Government Cybersecurity Grant administered by the Florida Digital Service has been granted. Based on the requests and information included in your application, the following capabilities will be offered:

Security Operations Platform.

In addition to software access for the capabilities offered, the Florida Digital Service will provide the following:

- Incident response assistance when requested; and
- Training, technical assistance and support for the capabilities granted.

As the procurements for the capabilities are being finalized, Florida Digital Service needs your help to execute the Grant Agreement by **May 31, 2023**. Once complete, we will outline the specific capabilities or funds awarded, identify the solution provider(s), and set up technical meetings to determine an implementation schedule.

The Florida Digital Service remains committed to supporting you throughout this process as we deploy critical capabilities to mitigate cybersecurity threats to your local community. We look forward to working alongside you and your team.

Regards,

Florida's Local Government Cybersecurity Grant Team
FL [Digital Service]
Cybersecuritygrants@digital.fl.gov

Ron DeSantis, Florida Governor
Pedro Allende, Secretary
James Grant, Florida State Chief Information Officer

GRANT AGREEMENT
FOR
LOCAL GOVERNMENT CYBERSECURITY GRANT PROGRAM
CONTRACT NO: DMS-22/23-273
CATALOG OF STATE FINANCIAL ASSISTANCE NUMBER: 72.009
BETWEEN
THE STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
AND
City of Daytona Beach Shores

GRANT AGREEMENT

This Grant Agreement (Agreement) is made and entered into by and between the Department of Management Services (Department), an agency of the State of Florida (State), and the City of Daytona Beach Shores (Grantee) and is effective as of the date last signed. The Department and the Grantee are sometimes referred to herein individually as a “Party” or collectively as the “Parties.”

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

WHEREAS, the Department, through the Florida Digital Service (FL[DS]), has the authority, pursuant to Chapter 2022-156, Laws of Florida, Specific Appropriation 2944A, to award grants to the Grantee for cybersecurity technical assistance; and

WHEREAS, the Grantee represents that it is fully qualified and eligible to receive the grant identified herein in accordance with the terms and conditions hereinafter set forth.

NOW THEREFORE, the Parties do mutually agree as follows:

A. Deliverables and Performance Requirements:

In accordance with Chapter 2022-156, Laws of Florida, Specific Appropriation 2944A, the Parties agree that the funds will be utilized as described in Attachment A.1 – Solution Statement of Work and/or Attachment A.2 – Funding Statement of Work, as applicable. The Grantee shall provide the deliverables specified herein in accordance with the terms and conditions of this Agreement, including its attachments and exhibits.

B. Agreement Period:

The performance period for this Agreement begins upon execution and ends upon the expiration of the applicable cybersecurity technical assistance services or commodities awarded or purchased pursuant to the Agreement, or in accordance with the final implementation plan(s), unless terminated earlier in accordance with the terms of this Agreement. No renewals or extensions of the Agreement are permitted.

C. Agreement Documents and Amendments Thereto.

1. Agreement Documents. “Agreement” means this Grant Agreement and all incorporated attachments, exhibits, and schedules, which set forth the entire understanding of the Parties and supersede any and all prior agreements and understandings related to the subject matter thereof.

All attachments, exhibits, and schedules listed below are incorporated in their entirety into, and will form part of, this Agreement. In the event of a conflict, the following order of precedence shall apply:

- a. This Grant Agreement
- b. The Statement(s) of Work:
 - Attachment A.1 – Solution Statement of Work
 - Attachment A.2 – Funding Statement of Work (applicable if added by Amendment)
- c. Attachment B – Audit Requirements for Awards of State and Federal Financial Assistance, including its Exhibit 1
- d. Attachment C, Grantee Data Sharing Agreement(s) (“DSA”), if applicable

- a. Final Implementation Plan(s), if awarded solutions under Attachment A.1.
2. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one (1) single agreement between the Parties.
3. Survivability. This Agreement and any and all promises, covenants, and representations made herein are binding upon the Parties hereto and any and all respective heirs, assigns, and successors in interest. The respective obligations of the Parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination or expiration of this Agreement.
4. Severability. If a court of competent jurisdiction deems any term or condition of this Agreement void or unenforceable, the other provisions are severable to that void provision, and will remain in full force and effect. However, to the fullest extent permitted by law, this Agreement shall be construed as if the scope or duration of such provision had been more narrowly drafted so as not to be invalid or unenforceable.
5. Amendments. With the exception of changes to the Primary Contacts, DSA/IT Coordinators, and the Department's/FL[DS]'s provision of the applicable vendor terms and conditions, this Agreement may only be modified or amended by a written agreement duly executed by the Parties.

D. Notices and Primary Contacts:

1. Notices. The Parties shall use the contact information provided in Section D.2., Primary Contacts, below, for all communications and notices under this Agreement. Where the term "written notice" is used to specify a notice requirement herein, said notice will be deemed to have been given (i) when personally delivered; (ii) when transmitted via facsimile (with confirmation of receipt) or email (with confirmation of receipt), provided the sender on the same day sends a confirming copy of such notice by a recognized delivery service (charges prepaid); (iii) the day immediately following the day (except if not a Business Day then the next Business Day) on which the notice or communication has been provided prepaid by the sender to a recognized overnight delivery service; or (iv) on the date actually received except where there is a date of the certification of receipt.
2. Primary Contacts.
 - a. **Department's Grant Manager** (see section 215.971, F.S.).
Lacy Perkins
Florida Digital Service
Department of Management Services
2555 Shumard Oaks Blvd
Tallahassee, Florida 32399
Telephone: (850) 413-0604
Email: CybersecurityGrants@digital.fl.gov
 - b. **Grantee's Grant Manager**
Lory B. Irwin
City of Daytona Beach Shores
2990 S. Atlantic Ave.
Daytona Beach Shores, Florida 32118
Telephone: (386) 763-5328

1. Changes in Primary Contacts. Either Party may provide notice to the other Party by email identifying a change of a designated primary contact and providing the new contact information for the newly designated primary contact. Such notice must be sent to the other Party's Grant Manager and is sufficient to effectuate this change without requiring a written amendment to this Agreement.

E. Payment, Funding, and Award Considerations:

1. Fiscal Year. The funds utilized for this Agreement are from the State's 2022-2023 Fiscal Year, which begins July 1, 2022, and expires on June 30, 2023.
2. Funding Awards. Pursuant to section 215.971, F.S., if funding is provided to the Grantee under this Agreement pursuant to Attachment A.2 – Funding Statement of Work, the following applies:
 - a. The Grantee may only expend funding under this Agreement for allowable costs resulting from obligations incurred during the performance period.
 - b. The Grantee shall refund to the Department any balance of unobligated funds that was advanced or paid to the Grantee.
 - c. The Grantee shall refund to the Department all funds paid in excess of the amount to which the Grantee or its subrecipients are entitled under the terms and conditions of the Agreement.
3. Services, Licenses, or Commodities Awards. If applicable, the Grantee agrees to implement services, licenses, or commodities described in Attachment A.1 – Solution Statement of Work, according to the Final Implementation Plan(s) as executed by the Parties.

All use of the items described in Attachment A.1 – Solution Statement of Work are subject to the terms and conditions of the DSA and applicable riders attached thereto. If awarded funding and the Grantee desires to integrate purchased services, licenses, or commodities with the State Cybersecurity Operations Center, a DSA shall be separately executed for such.

As this Agreement will need to be entered prior to the procurement of the awarded services, licenses, or commodities, the availability of such awarded services, licenses, or commodities may be affected and are subject to change. If such changes are required, the Department will work with the Grantee to amend this Agreement. Such limitations do not apply for funding awards.

4. State Financial Assistance. In accordance with section 215.971(1), Florida Statutes (F.S.), the Grantee may utilize any provided commodities or services only in accordance with this Agreement.
5. Payment Process. The Department agrees to purchase all commodities or services awarded to the Grantee on behalf of the Grantee as described in Attachment A.1 – Solution Statement of Work. For funding awards, please see Attachment A.2 –Funding Statement of Work.

A. Compliance with Law:

1. Applicable Law. The Parties shall comply with the applicable state and federal laws, rules, regulations, and policies, including, but not limited to, those identified in this Agreement.
2. Governing Law. The Grantee agrees that this Agreement is entered into in the State of Florida, and shall be construed, performed, and enforced in all respects in accordance with the laws, rules, and regulations of the State. Each Party shall perform its obligations herein in accordance with the terms and conditions of this Agreement. Without limiting the provisions of Section Q, Dispute Resolution, the exclusive venue of any legal or equitable action that arises out of or relates to the Agreement shall be the appropriate State court in Leon County, Florida; in any such action, the Parties waive any right to jury trial.
3. Ethics. The Grantee shall comply with the requirements of sections 11.062 and 216.347, F.S. The Grantee shall not, in connection with this or any other agreement with the State, directly or indirectly:
 - a. offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty; or
 - b. offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of this subsection b, "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

Upon request of the Department's Inspector General, or other authorized State official, the Grantee shall provide any type of information the Inspector General deems relevant to the Grantee's integrity or responsibility. Such information may include, but shall not be limited to, the Grantee's business or financial records, documents, or files of any type or form that refer to or relate to this Agreement. The Grantee shall retain such records in accordance with the record retention requirements of Part V of Attachment B, Audit Requirements for Awards of State and Federal Financial Assistance.

3. Advertising. Subject to Chapter 119, F.S., the Grantee shall not publicly disseminate any information concerning this Agreement without prior written approval from the Department, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying the Department or the State as a reference, or otherwise linking the Grantee's name and either a description of the Agreement or the name of the Department or the State in any material published, either in print or electronically, to any entity that is not a Party to this Agreement, except potential or actual authorized distributors, dealers, resellers, or service representatives.
4. Conflict of Interest. This Agreement is subject to Chapter 112, F.S. The Grantee shall disclose the name of any officer, director, employee, or other agent who is also an employee of the State. The Grantee shall also disclose the name of any State employee who owns, directly or indirectly, more than a five percent (5%) interest in the Grantee or its affiliates.
5. Records Retention. The Grantee shall retain all records made or received in conjunction with the Agreement for the longer of five (5) years after the end of the Agreement period and all pending matters or the period required by the General Records Schedules

maintained by the Florida Department of State (available at: <https://dos.myflorida.com/media/703328/gsl-sl-2020.pdf>). If the Grantee's record retention requirements terminate prior to the requirements stated herein, the Grantee may meet the Department's record retention requirements for this Agreement by transferring its records to the Department at that time, and by destroying duplicate records in accordance with section 501.171, F.S., and, if applicable, section 119.0701, F.S. The Grantee shall adhere to established information destruction standards such as those established by the National Institute of Standards and Technology Special Publication 800-88, "Guidelines for Media Sanitization" (2014). See <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf>.

3. MyFloridaMarketPlace (MFMP). Disbursements under this Agreement are disbursements of State financial assistance to a recipient as defined in section 215.97, F.S., and are exempt from the MFMP Transaction Fee pursuant to Rule 60A-1.031(6)(d), F.A.C. The Department, on behalf of the Grantee, will process payments for commodities or services awarded through MFMP.

A. Recoupment of Funds:

1. Notwithstanding the damages limitations of Section S, Limitation of Liability, if the Grantee's non-compliance with any provision of the Agreement results in additional costs or monetary loss to the Department or the State, the Department can recoup the costs or losses from monies owed to the Grantee under this Agreement or any other agreement between the Grantee and any State entity. In the event that the discovery of additional costs or losses arises when no monies are available under this Agreement or any other agreement between the Grantee and any State entity, the Grantee shall repay such costs or losses to the Department in full within thirty (30) days from the date of discovery or notification, unless the Department agrees, in writing, to an alternative timeframe. The Department shall not be liable for any penalties or costs associated with the Grantee's misuse of the awarded services, licenses, or commodities.
2. If the Grantee or its independent auditor discovers that an overpayment has been made, the Grantee shall repay said overpayment within forty (40) calendar days without prior notification from the Department. In the event that the Department first discovers an overpayment has been made, the Department will notify the Grantee in writing. Should repayment not be made in a timely manner, the Department shall be entitled to charge interest at the lawful rate of interest on the outstanding balance beginning forty (40) calendar days after the date of notification or discovery. Refunds should be sent to the Department's Agreement Manager and made payable to the "Department of Management Services." If this Agreement is terminated for cause, the Department, at its discretion, may require that the Grantee return to the Department any funds that were used for purposes that are considered ineligible under this Agreement.

B. Audits and Records:

1. Representatives of the Department, including the State's Chief Financial Officer, the State's Auditor General, and representatives of the federal government, shall have access to any of the Grantee's books, documents, papers, and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.
2. The Grantee shall maintain books, records, and documents in accordance with the generally accepted accounting principles to sufficiently and properly reflect all services, licenses, or commodities received by the Department under this Agreement.

1. The Grantee shall comply with all applicable requirements of section 215.97, F.S., and Attachment B, Audit Requirements for Awards of State and Federal Financial Assistance. If the Grantee is required to undergo an audit, the Grantee shall disclose all related party transactions to the auditor.
2. The Grantee shall retain all its records, financial records, supporting documents, statistical records, and any other documents, including electronic storage media, pertinent to this Agreement in accordance with the record retention requirements of Part V of Attachment B, Audit Requirements for Awards of State and Federal Financial Assistance. The Grantee shall cooperate with the Department to facilitate the duplication and transfer of such records or documents upon the Department's request.
3. If awarded services, licenses, or commodities described in Attachment A.1, Solution Statement of Work, the Grantee shall include records of the start and end dates for all tasks in the Final Implementation Plan(s). Additional requirements may be incorporated in the Final Implementation Plan(s).
4. The Grantee shall include the aforementioned audit and recordkeeping requirements in all approved subrecipient contracts and assignments.

C. Public Records and Records Production:

1. Identification and Protection of Confidential Information. Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and section 119.011, F.S., provides a broad definition of "public record." As such, records submitted to the Department (or any other State agency) are public records and are subject to disclosure unless exempt from disclosure by law. The following records for agencies, as "agency" is defined in section 119.011(2), F.S., are confidential and exempt pursuant to section 119.0725, F.S.:
 - a. cybersecurity insurance limits and deductibles;
 - b. information relating to critical infrastructure;
 - c. incident reporting information pursuant to sections 282.318 and 282.3185, F.S.;
 - d. network schematics;
 - e. hardware and software configurations; and
 - f. encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches.

If the Grantee considers any portion of other records it provides to the Department (or any other State agency) to be trade secret or otherwise confidential or exempt from disclosure under Florida or federal law, the Grantee shall mark the document as "confidential" and simultaneously provide the Department (or other State agency) with a separate, redacted copy of the record. Such records and those records made confidential and exempt pursuant to section 119.0725, F.S., shall be considered "Confidential Information." For each portion redacted, the Grantee shall describe in writing the grounds for claiming the exemption, including the specific statutory citation for such exemption. The Grantee shall only redact portions of records that it claims are Confidential Information.

In the event of a request for public records pursuant to Chapter 119, F.S., the Florida Constitution, or other authority, to which records that are marked as "confidential" are responsive, the Department will provide the Grantee-redacted copy to the requestor. If a requestor asserts a right to the redacted Confidential Information, the Department will notify the Grantee such an assertion has been made. It is the Grantee's responsibility to

take the appropriate legal action to assert that the information in question is exempt from disclosure under Chapter 119, F.S., or other applicable law.

If the Department becomes subject to a demand for discovery or disclosure of documents that are marked as “confidential” in a legal proceeding, the Department will give the Grantee notice of the demand or request. The Grantee shall take the appropriate legal action in response to the demand and to defend its claims of confidentiality. If the Grantee fails to take appropriate and timely action to protect the records it has designated as Confidential Information, the Grantee agrees that the Department is permitted to treat those records as not confidential and the Department is permitted to provide the unredacted records to the requester and the Grantee agrees not to pursue any suit, action, or claim, including for damages, against the Department or its employees, attorneys, agents or volunteers.

The Grantee shall protect, defend, and indemnify the Department from all suits, claims, actions, demands, liability, costs, fines, and attorneys’ fees arising from or relating to the Grantee’s determination that the redacted portions of its records are Confidential Information, including all costs, including attorney’s fees, incurred regarding the entitlement or amount of such attorney’s fees. If the Grantee fails to submit a redacted copy in accordance with this section, of information it claims is Confidential Information, the Department is authorized to produce the entire record submitted to the Department, including those records marked “confidential,” in response to a public records request for, or demand for discovery or disclosure of, these records and the Grantee agrees not to pursue any suit, action, or claim, including for damages, against the Department or its employees, attorneys, agents, or volunteers.

1. Inspection of Records. In accordance with section 216.1366, F.S., the Department is authorized to inspect the: (a) financial records, papers, and documents of the Grantee that are directly related to the performance of this Agreement or the expenditure of State funds; and (b) programmatic records, papers, and documents of the Grantee which the Department determines are necessary to monitor the performance of this Agreement or to ensure that the terms of this Agreement are being met. The Grantee shall provide such records, papers, and documents requested by the Department within ten (10) Business Days after the request is made.

D. Non-Discrimination:

The Grantee shall not unlawfully discriminate against any individual employed in the performance of this Agreement due to race, religion, color, sex, physical handicap unrelated to such person’s ability to engage in this work, national origin, ancestry, or age. The Grantee shall provide a harassment-free workplace, and any allegation of harassment shall be given priority attention and action.

E. Duty of Continuing Disclosure of Legal Proceedings and Instances of Fraud:

1. The Grantee shall provide written notice to the Department disclosing any criminal litigation, investigation, or proceeding that arises during the Agreement period involving the Grantee except where the Grantee is involved in a prosecutorial or administrative capacity, or, to the extent the Grantee is aware, any of the Grantee’s subrecipients or contractors (or any of the foregoing entities’ current officers or directors). The Grantee shall also provide written notice to the Department disclosing any civil litigation, arbitration, or proceeding that arises during the Agreement period that is related to or involves any services, licenses, or commodities under the Agreement, to which the Grantee (or, to the

extent the Grantee is aware, any subrecipient or contractor hereunder) is a party, and which:

- a. might reasonably be expected to adversely affect the viability or financial stability of the Grantee or any subrecipient or contractor hereunder; or
- b. involves a claim or written allegation of fraud against the Grantee, or any subrecipient or contractor hereunder, by a governmental or public entity arising out of business dealings with governmental or public entities.

All notices under this section must be provided to the Department within thirty (30) business days following the date that the Grantee first becomes aware of any such litigation, investigation, arbitration, or other proceeding (collectively, a "Proceeding"). Details of settlements that are prevented from disclosure by the terms of the settlement must be annotated as such.

2. This duty of disclosure applies to each officer and director of the Grantee, subrecipients, or contractors when any proceeding relates to the officer's or director's business or financial activities.
3. Instances of Grantee operational fraud or criminal activities, regardless of whether a legal proceeding has been initiated, shall be reported to the Department's Agreement Manager within twenty-four (24) hours of the Grantee being made aware of the incident.
4. The Grantee shall promptly notify the Department's Grant Manager of any Proceeding relating to or affecting the Grantee's, subrecipient's, or contractor's business. If the existence of such Proceeding causes the State to conclude that the Grantee's ability or willingness to perform the Agreement is jeopardized, the Grantee shall be required to provide the Department's Grant Manager all reasonable assurances requested by the Department to demonstrate that:
 - a. the Grantee will be able to perform the Agreement in accordance with its terms and conditions; and
 - b. the Grantee and/or its employees, agents, subrecipients, or contractor(s) have not and will not engage in conduct in performance under the Agreement that is similar in nature to the conduct alleged in such Proceeding.

F. Assignments, Subgrants, and Contracts:

1. Unless otherwise specified in either version of Attachment A, Statement of Work, or through prior written approval of the Department, the Grantee may not: 1) subgrant any of the services, licenses, or commodities provided to the Grantee by the Department under this Agreement; 2) contract its duties or responsibilities under this Agreement out to a third party; or 3) assign, transfer, or sell any of the Grantee's rights or responsibilities or granted commodities and services hereunder, unless specifically permitted by law to do so. Any such subgrant, contract, or assignment occurring without the prior approval of the Department shall be null and void. In the event the Department approves transfer of the Grantee's obligations, the Grantee remains responsible for all work performed and all expenses incurred in connection with the Agreement. In addition, this Agreement shall bind the successors, assigns, and legal representatives of the Grantee, and of any legal entity that succeeds the Grantee, to the Grantee's obligations to the Department.
2. The Grantee agrees to be responsible for all work performed in fulfilling the obligations of this Agreement.

1. The Grantee agrees that the Department may assign or transfer its rights, duties, or obligations under this Agreement to another governmental entity upon giving prior written notice to the Grantee.

G. Intellectual Property Rights:

Where activities supported by this Agreement result in the creation of intellectual property rights, the Grantee shall notify the Department, and the Department will determine whether the Grantee will be required to grant the Department a perpetual, irrevocable, royalty-free, nonexclusive license to use, and to authorize others to use for State government purposes, any resulting patented, copyrighted, or trademarked work products developed under this Agreement.

H. Independent Contractor Status:

It is mutually understood and agreed to that at all times during the Grantee's performance of its duties and responsibilities under this Agreement that Grantee is acting and performing as an independent contractor. The Department shall neither have nor exercise any control or direction over the methods by which the Grantee shall perform its work and functions other than as provided herein. Nothing in this Agreement is intended to or shall be deemed to constitute a partnership or joint venture between the Parties.

1. The Grantee (and its officers, agents, employees, subrecipients, contractors, or assignees), in performance of this Agreement, shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. Further, unless specifically authorized to do so, the Grantee shall not represent to others that, as the Grantee, it has the authority to bind the Department or the State.
2. Unless the Grantee is a State agency, neither the Grantee nor its officers, agents, employees, subrecipients, contractors, or assignees, are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.
3. The Grantee agrees to take such actions as may be necessary to ensure that each subrecipient or contractor will also be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State.
4. Unless agreed to by the Department in either versions of Attachment A, Statement of Work, the Department will not furnish services of support (e.g., office space, office supplies, telephone service, secretarial, clerical support, etc.) to the Grantee or its subrecipient, contractor, or assignee.
5. The Department shall not be responsible for withholding taxes with respect to the Grantee's compensation hereunder. The Grantee shall have no claim against the Department for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits, or employee benefits of any kind. The Grantee shall ensure that its employees, subrecipients, contractors, and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State.
6. At all times during the Agreement period, the Grantee must comply with the reporting and Reemployment Assistance contribution payment requirements of chapter 443, F.S.

I. Entire Agreement:

This Agreement, including all referenced attachments and exhibits, embodies the entire agreement of the Parties. There are no other provisions, terms, conditions, or obligations. This

Agreement supersedes all previous oral or written communications, representations, or agreements on this subject.

A. Termination:

1. Termination for Failure to Implement. For awarded services, licenses or commodities under Attachment A.1 – Statement of Work, if the Grantee does not approve a Final Implementation Plan within 15 calendar days of purchase order issuance for the awarded solutions, this Agreement may be terminated by the Department, at its sole discretion.
2. Termination Due to the Lack of Funds. The funds utilized for this Agreement are from the State's 2022-2023 Fiscal Year, which begins July 1, 2022, and expires on June 30, 2023. If funds become unavailable for the Agreement's purpose, such event will not constitute a default by the Department or the State. The Department agrees to notify the Grantee in writing at the earliest possible time if funds are no longer available. In the event that any funding identified by the Grantee as funds to be provided for completion of the project as described herein becomes unavailable, including if any State funds upon which this Agreement depends are withdrawn or redirected, the Department may terminate this Agreement by providing written notice to the Grantee. The Department will be the final authority as to the availability of funds.
3. Termination for Cause. The Department may terminate the Agreement if the Grantee fails to:
 - a. satisfactorily complete the deliverables within the time specified in the Agreement;
 - b. maintain adequate progress, thus endangering performance of the Agreement;
 - c. honor any term of the Agreement; or
 - d. abide by any statutory, regulatory, or licensing requirement.

The Grantee shall continue to perform any work not terminated. The Department's rights and remedies in this clause are in addition to any other rights and remedies provided by law or under the Agreement. The Grantee shall not be entitled to recover any cancellation charges or lost profits.

4. Termination for Convenience. The Department may terminate this Agreement, in whole or in part, by providing written notice to the Grantee that the Department determined, in its sole discretion, it is in the State's interest to do so. The Grantee shall not furnish any product or continue services after the specified termination date in the Department's notice of termination, except as necessary to complete the continued portion of the Agreement, if any. The Grantee will not be entitled to recover any cancellation charges or lost profits.
4. Grantee's Responsibilities upon Termination. If the Department provides a notice of termination to the Grantee, except as otherwise specified by the Department in that notice, the Grantee shall:
 - a. Stop work under this Agreement on the date and to the extent specified in the notice.
 - b. Complete performance of such part of the work that has not been terminated by the Department, if any.
 - c. Take such action as may be necessary, or as the Department may specify, to protect and preserve any property which is in the possession and custody of the Grantee, and in which the Department has or may acquire an interest.
 - d. Transfer, assign, and make available to the Department all property and materials belonging to the Department upon the effective date of termination of this Agreement.

No extra compensation will be paid to the Grantee for its services in connection with such transfer or assignment.

A. Dispute Resolution:

Disputes concerning performance under the Agreement will be decided by the Department, who shall reduce the decision to writing and serve a copy to the Grantee. In the event a Party is dissatisfied with the dispute resolution decision, jurisdiction for any dispute arising under the terms of the Agreement will be in State courts, and the venue will be in the Second Judicial Circuit, in and for Leon County.

Except as otherwise provided by law, the Parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

B. Indemnification:

1. The Grantee shall be fully liable for the actions of its agents, employees, partners, subrecipients, or contractors and shall fully indemnify, defend, and hold harmless the State and the Department, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Grantee, its agents, employees, partners, subrecipients, or contractors provided, however, that the Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Department.
2. Further, the Grantee shall fully indemnify, defend, and hold harmless the State and the Department from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right provided, however, that the foregoing obligation shall not apply to the Department's misuse or modification of the Grantee's products or the Department's operation or use of the Grantee's products in a manner not contemplated by the Agreement. The Department will not be liable for any royalties.
3. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by the State or the Department in any legal action without the Grantee's prior written consent, which shall not be unreasonably withheld.
4. For the avoidance of doubt, as the Grantee is a subdivision, as defined in section 768.28(2), F.S., pursuant to section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability to the other Party for the other Party's negligence. Notwithstanding anything to the contrary in this section R., indemnification by either Party for tort claims is limited to the amounts prescribed in section 768.28, F.S., plus the Party's reasonable attorneys' fees.

C. Limitation of Liability:

Unless otherwise specifically enumerated in this Agreement, no Party shall be liable to the other Party for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement requires the Grantee to back-up data or records), even if the Party has been advised that such damages are possible. No Party shall be liable to the other Party for lost profits, lost revenue, or lost institutional operating savings. The State and the Department may, in addition to other remedies available to them at law or in equity and upon notice to the Grantee,

retain such monies from amounts due the Grantee as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. Except as otherwise provided in this Agreement or the Data Sharing Agreement or its attachments or Riders, the Department is not liable for unauthorized access to information except as directly attributable to the actions of the Department. For all claims against Grantee under this Agreement, and regardless of the basis on which the claim is made, Grantee's liability under this Agreement for direct damages shall be limited to the dollar value of this Agreement. This limitation shall not apply to claims arising under the Indemnity paragraphs contained in this Agreement.

A. Force Majeure and Notice of Delay from Force Majeure:

Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor caused by the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control, or for any of the foregoing that affects subrecipients, contractors, or suppliers if no alternate source of supply is available. However, in the event a delay arises from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting damages, costs, delays, or disruptions to the project in accordance with the Party's performance requirements under this Agreement.

In the case of any delay the Grantee believes is excusable under this section, the Grantee shall provide written notice to the Department describing the delay or potential delay and the cause of the delay within: ten (10) calendar days after the cause that creates or will create the delay first arose (if the Grantee could reasonably foresee that a delay could occur as a result); or five (5) calendar days after the date the Grantee first had reason to believe that a delay could result (if the delay is not reasonably foreseeable). **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this section is a condition precedent to such remedy.

The Department, in its sole discretion, will determine if the delay is excusable under this section and will notify the Grantee of its decision in writing. The Grantee shall not assert a claim for damages, other than for an extension of time, against the Department. The Grantee will not be entitled to an increase in the Agreement price or payment of any kind from the Department for any reason. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this section, after the causes have ceased to exist, the Grantee shall resume performance, unless the Department determines, in its sole discretion, that the delay will significantly impair the ability of the Grantee to timely complete its obligations under this Agreement, in which case, the Department may terminate the Agreement in whole or in part.

B. Mandatory Disclosure Requirements:

1. Convicted Vendor List. The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.133(1)(a), F.S., are placed on the convicted vendor list. Pursuant to section 287.133(2)(a), F.S.: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of 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 s. 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list."

1. Discriminatory Vendor List. The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.134(1)(a), F.S., are placed on the discriminatory vendor list. Pursuant to section 287.134(2)(a), F.S.: "An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of 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."
2. Antitrust Violator Vendor List. The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.137(1)(a), F.S., are placed on the antitrust violator vendor list. Pursuant to section 287.137(2)(a), F.S.: "A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity."
3. Foreign Gifts and Contracts. The Grantee shall comply with any applicable disclosure requirements in section 286.101, F.S. Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

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IN WITNESS WHEREOF, the Parties agree to the terms and conditions of this Agreement and have duly authorized their respective representatives to sign it on the dates indicated below.

Grantee:
City of Daytona Beach Shores

Department of Management Services:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A.1 SOLUTION STATEMENT OF WORK

1. Scope of Work.

Pursuant to Chapter 2022-156, Laws of Florida, Specific Appropriation 2944A, the Parties agree that the Department shall, on behalf of the Grantee, expend funds for the provision of services, licenses, or commodities awarded to the Grantee to be utilized for cybersecurity technical assistance purposes. The Grantee is being granted assistance in the form of services, licenses, or commodities to enhance its cybersecurity framework, to identify and mitigate risks, and to protect its infrastructure from threats through Florida's Local Government Cybersecurity Grant Program (the "Project"). The Florida Local Government Cybersecurity Grant is a competitive grant program to provide funding for cybersecurity technical assistance to local Florida governments to enhance their cybersecurity capabilities.

2. Awarded Capabilities.

The Department shall offer one (1) or more solutions to the Grantee for the following capabilities:

Security Operations Platform.

Note: The Department will make its best effort to award the Grantee's preferred solution per capability. However, the Department can only contract for a limited number of solutions based on best value, technical acceptability, and operational volume.

3. Grantee Responsibilities.

The Grantee shall complete the Project in accordance with the requirements set forth in this Agreement and any applicable local, State, and federal laws and regulations. The Grantee is solely responsible for ensuring that any provided solutions are compliant with applicable state and federal laws and regulations based on Grantee's intended use, including, but not limited to, Health Insurance Portability and Accountability Act, Family Educational Rights and Privacy Act, Driver Privacy Protection Act, and General Data Protection Regulation.

4. Department Responsibilities.

The Department shall review Grantee reports and other records and reconcile them to ensure that the requirements of section 215.971, F.S., pertaining to agreements funded with State financial assistance are fulfilled.

5. Deliverables.

The Grantee shall complete the following deliverable(s) on the dates specified, but Deliverables 1-3 shall be completed by June 30, 2023:

Deliverables		
No.	Tasks	Performance Measures and Due Dates
1	Execute this Grant Agreement.	The Grantee must execute the Grant Agreement within 15 calendar days of award.
2	Participate in a kick-off meeting with FL[DS] and the solution provider.	The Grantee shall participate in the kick-off meeting with FL[DS] and the solution provider within five (5) calendar days of Purchase Order (PO) issuance.
3	Approve Final Implementation Plan(s) for solutions awarded.	The Grantee must coordinate with the solution provider(s) to review the Implementation Plan(s). If the Grantee chooses to proceed with a solution , the Grantee must approve the Final Implementation Plan within five (5) calendar days of the vendor providing the draft Implementation Plan.
4	Complete all tasks in accordance with the Final Implementation Plan(s).	The Grantee shall provide all necessary resources to execute tasks assigned to the Grantee in the Final Implementation Plan(s).
5	Notify the Department's Grant Manager of implementation completion per the Final Implementation Plan.	The Grantee shall notify the Department's Grant Manager in writing within 10 calendar days of implementation completion.

5. Reporting Requirements.

The Department may request status meetings for the Grantee to report on the implementation status, as necessary, with the Grantee's Grant Manager.

The Department may, at its sole discretion, develop a format and deadlines the Grantee must comply with when reporting the information above. The Grantee's failure to confirm completion of the Final Implementation Plan(s) or comply with the reporting format and schedule may result in termination of the awarded solutions.

6. Performance Standards.

The Grantee shall timely perform all tasks and provide deliverables as set forth in this Agreement. The Department is entitled at all times, upon request, to be advised as to the status of work being done by the Grantee, on behalf of the grantee, and the details thereof.

If the Department determines that there is a performance deficiency that requires correction by the Grantee, then the Department shall notify the Grantee. The Grantee shall make the correction within a timeframe specified by the Department. The Grantee shall provide the Department with a corrective action plan describing how the Grantee will address all performance deficiencies identified by the Department. If the corrective action plan is unacceptable to, or implementation of the plan fails to remedy the performance deficiencies, the Grantee shall work cooperatively with the Department to modify the corrective action plan or to remedy the deficiencies. Additionally, if a performance deficiency is attributable to the performance of a contractor or subcontractor of the Grantee, the Grantee shall take all actions

available to it to enforce financial consequences in its contract with the contractor or subcontractor or to pursue damages.

5. Financial Consequences for Failure to Timely and Satisfactorily Perform.

Violations of this Agreement or applicable licenses, or failure to provide the deliverables, may result, except as detailed above, in termination of access to awarded solutions and require immediate removal of all software, hardware, or related services. Grantee may be subject to financial assessments related to such violations.

This provision for financial consequences shall not affect the Department's right to terminate the Agreement as provided elsewhere in the Agreement.

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Department of Financial Services

Division of Accounting and Auditing – Bureau of Auditing

AUDIT REQUIREMENTS FOR AWARDS OF STATE AND FEDERAL FINANCIAL ASSISTANCE

The administration of resources awarded by the Department of Management Services (Department) to the Grantee may be subject to audits and/or monitoring by the Department, as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes (F.S.), as revised (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this agreement, the Grantee agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Grantee is appropriate, the Grantee agrees to comply with any additional instructions provided by Department staff to the Grantee regarding such audit. The Grantee further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

Part I: Federally Funded

This part is applicable if the Grantee is a state or local government or a nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

1. A Grantee that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this form lists the federal resources awarded through the Department by this agreement. In determining the federal awards expended in its fiscal year, the Grantee shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the Grantee conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, the Grantee shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A Grantee that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the Grantee expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Grantee resources obtained from other than federal entities).

Part II: State Funded

1. In the event that the Grantee expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Grantee (for fiscal years ending June 30,

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

2017, and thereafter), the Grantee must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department this agreement. In determining the state financial assistance expended in its fiscal year, the Grantee shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.

1. For the audit requirements addressed in Part II, paragraph 1, the Grantee shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
2. If the Grantee expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the Grantee expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the Grantee's resources obtained from other than state entities).

Part III: Other Audit Requirements

N/A

Part IV: Report Submission

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR §200.512, by or on behalf of the Grantee directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512.

The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of the Grantee directly to each of the following:

- a. The Department at each of the following addresses:

Electronic copies (preferred): Cybersecuritygrants@digital.fl.gov

or

Paper copies:
Grant Manager
Florida Digital Service
Department of Management Services
2555 Shumard Oaks Blvd, Suite 200

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

Tallahassee, Florida 32399
Email: Cybersecuritygrants@digital.fl.gov

- a. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Any reports, management letters, or other information required to be submitted to the Department pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
4. Grantees, when submitting financial reporting packages to the Department for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Grantee in correspondence accompanying the reporting package.

Part V: Record Retention

The Grantee shall retain sufficient records demonstrating its compliance with the terms of the award(s) and this agreement for a period of five (5) years from the date the audit report is issued, and shall allow the Department, or its designee, the CFO, or Auditor General access to such records upon request. The Grantee shall ensure that audit working papers are made available to the Department, or its designee, the CFO, or Auditor General upon request for a period of five (5) years from the date the audit report is issued, unless extended in writing by the Department.

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

EXHIBIT 1

**Federal Resources Awarded to the Grantee
Pursuant to this Agreement Consist of the Following:**

1. Federal Program A:
N/A
2. Federal Program B:
N/A

**Compliance Requirements Applicable to the Federal Resources
Awarded Pursuant to this Agreement are as Follows:**

1. Federal Program A:
N/A
2. Federal Program B:
N/A

**State Resources Awarded to the Grantee
Pursuant to this Agreement Consist of the Following:**

Matching Resources for Federal Programs:

1. Federal Program A:
N/A
2. Federal Program B:
N/A

Subject to Section 215.97, F.S.:

1. State Project A: Cybersecurity Technical Assistance Grants
State Awarding Agency: Florida Department of Management Services
Catalog of State Financial Assistance Title and Number: 72.009
Amount: \$_____
2. State Project B:
N/A

**Compliance Requirements Applicable to State Resources Awarded
Pursuant to this Agreement Are as Follows:**

The compliance requirements are as stated in Grant Agreement No. DMS-22/23-273 between the Grantee and the Department, entered in State fiscal year 2022-23.

Attachment C

Grantee Data Sharing Agreement

Purposes

Grantee desires to utilize software licenses, applications, and solutions, as applicable, in connection with the attached Exhibit A – Cybersecurity Incident Response Rider and Exhibit B – Solution Rider, incorporated herein. This DSA describes the terms and conditions for the use of software licenses, applications, and solutions and protection of Covered Data, including requirements to safeguard the availability, confidentiality, and integrity of Covered Data in furtherance of the security objectives of Chapter 282, F.S.

I. Definitions

- A. Access – The authorization to inspect, review, transmit, duplicate, communicate with, retrieve data from, or otherwise make use of any Covered Data, regardless of type, form, or nature of storage. "Access" to a computer system or network includes local and remote access, as applicable.
- B. Authorized Purpose – The purpose(s) for which an Authorized Third Party may access, use, or disclose the Covered Data.
- C. Authorized Third Party – An individual, state agency, other Florida state or local governmental entity, or a private sector contractor or service provider of the Grantee which receives Covered Data.
- D. Authorized User – An individual granted Access or to use Software Entitlement by either FL[DS] or Grantee.
- E. County and Municipality Cybersecurity Technical Assistance Program ("the Program") – refers to the grant program established by the 2022-2023 General Appropriations Act to enhance county and municipal cybersecurity and protect the infrastructure of local governments from threats.
- F. Covered Data – The limited subset of security data that is derived from Grantee's use of any Software Entitlements as defined in the attached Rider(s); a Grantee's confidential or proprietary information; and personal information as defined under section 501.171, F.S., and any other applicable privacy or data breach notification laws as may exist.
- G. Data Breach – Either (1) any unauthorized access to, or use or disclosure of, Covered Data for any purpose other than as expressly permitted by this DSA or required by law; or (2) a breach of privacy or of the security of the Covered Data. Good faith access of data by an employee or agent of the Grantee does not constitute a breach of security, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use.
- H. DSA Coordinators – The individuals appointed by the signatories to this DSA as the point of contact for this DSA, who are responsible for ensuring that the Authorized Users comply with the activities identified herein.
- I. HIPAA - Health Insurance Portability and Accountability Act of 1996.

- A. Information Technology (IT) Coordinators – The individuals appointed by the signatories to this DSA as responsible for data flow and other technology-related considerations under this DSA.
- B. Information Technology Resources – As defined in section 282.0041, Florida Statutes, the data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training. As used in this DSA, the term also includes the definition for “Information Technology,” as defined in section 282.0041, Florida Statutes, to add equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.
- C. Software Entitlement – Proprietary software provided to the Grantee under the Agreement to satisfy provision of the solution(s) awarded to the Grantee, as identified in Attachment A.1.

II. Responsibilities of the Parties

- A. **Data Transmission.** Covered Data shall only be transmitted through secure file transfer protocol or other secure transmission methods utilizing a National Institute of Standards and Technology approved means of electronic encryption as well as password protection and in a file format and layout determined by FL[DS]. Covered Data shall not be transmitted via any other means, including electronic mail. If applicable to any transmission of the Covered Data, both transmitting and receiving Grantee shall completely and permanently remove Covered Data from any temporary transfer location within twenty-four (24) hours of receipt of the Covered Data.
- B. **Compliance with Applicable Laws.** Each Party covenants and agrees that, in the performance of this DSA, it shall comply with all applicable federal, state, and local laws, statutes, and regulations including, but not limited to, such laws set forth in Article VI as applicable to a Project and such other data privacy or security laws, all as they exist now and as they may be amended from time to time (“Applicable Laws”). In the event of any notice of a material violation of Applicable Laws, or an investigation into an alleged material violation, the affected Party shall promptly notify the other in writing of such notice.

The Parties further agree to follow and be bound by the terms and conditions of any policy decisions or directives from the federal and state agencies with jurisdiction over the use of the data described herein upon receipt of written notice directing that such rules, policy decisions, or directives apply to this DSA.

- C. **Compliance with Information Security Standards.** Each Party covenants and agrees to comply with Rule Chapter 60GG-2, Florida Administrative Code (“Security Standards”), with respect to its obligations under this DSA. Grantee shall implement the Security Standards with respect to its obligations under this DSA as an “Agency,” regardless of whether they meet the definition of “Agency” in Rule Chapter 60GG-2, Florida Administrative Code.

FL[DS], Grantee, and Authorized Third Parties shall implement reasonable and appropriate administrative, technical, and physical safeguards to maintain the security and protect the confidentiality, integrity, and availability of Access.

Grantee shall instruct all its Authorized Users with the opportunity for Access on the safeguards and requirements of the DSA and all applicable federal and state requirements.

- A. **HIPAA Business Associate Agreement.** To the extent that a Party is acting as a Business Associate (as defined by HIPAA) of the other Party, the Parties further agree to enter into a Business Associate Agreement as necessary, in the form of a mutually agreed-upon appendix to the DSA.
- B. **Incorporation and Compliance with Exhibits, Appendices and Riders, if Applicable.** The Project Riders, and any exhibits or appendices to this DSA are hereby incorporated and made a part hereof and are an integral part of this DSA. Each Rider, Exhibit, and Appendix attached hereto or referred to herein are hereby incorporated in and made a part of this DSA as if set forth in full herein.

III. FL[DS] Role and Responsibilities

- A. FL[DS] is responsible for:
 - 1. Processing Covered Data in accordance with the State Cybersecurity Act;
 - 2. Facilitating data sharing with the Grantee and/or an Authorized Third Party in accordance with this DSA;
 - 3. Providing the Grantee with the option to utilize Software Entitlements; and
 - 4. Protecting the integrity of Covered Data obtained by FL[DS] through Grantee's use of any of the Software Entitlements. FL[DS] will not disclose this Covered Data to any third party unless required by law or as otherwise authorized by Grantee.
- B. FL[DS] will only access, use, or disclose Covered Data, as permitted by Grantee, as required by Applicable Law, or as necessary for completion of its responsibilities under this DSA, including any Project Riders. FL[DS] will ensure that its Authorized Users only access, use, or disclose Covered Data, as permitted by Grantee, as required by Applicable Law, or as necessary for completion of its responsibilities for any Projects, as assigned by FL[DS].
- C. FL[DS] will exercise reasonable care and no less than the same degree of care FL[DS] uses to protect its own confidential information to prevent confidential information from being used in a manner that is not expressly a purpose authorized in this DSA or as required by Applicable Law.

IV. Grantee's Role and Responsibilities

- A. Covered Data is and shall remain the property of Grantee.

- A. Grantee is solely responsible for its Access to and use of Software Entitlements and Covered Data, including:
 - 1. Ensuring a level of security appropriate to the risk in respect of Covered Data;
 - 2. Securing Grantee's and its Authorized Users' systems and devices that can Access FL[DS] systems and Software Entitlements and complying with the Security Standards;
 - 3. Selecting and/or ensuring that Grantee has selected its Authorized Users; activating and deactivating the Access, credentials, and privileges of its Authorized Users; and managing access controls to the FL[DS] system and Software Entitlements in a timely manner in accordance with the Security Standards;
 - 4. Securing the account authentication credentials, systems, and devices of Grantee personnel who the Grantee designates to be Authorized Users;
 - 5. Managing the compliance of its Authorized Users with the Grantee's established security measures and as required by Applicable Law;
 - 6. Maintaining audit logs, as deemed necessary by the Grantee to demonstrate compliance with its obligations under this DSA;
 - 7. Backing up Covered Data, if required by law or Grantee policy; and
 - 8. Ensuring that it and its Authorized Users remain in compliance with the terms and conditions of any Software Entitlements.
- B. FL[DS] is not responsible for, and has no obligation for:
 - 1. Selecting or verifying Grantee's Authorized Users, activating or deactivating the Access or credentials of Authorized Users; or
 - 2. Protecting Covered Data that Grantee elects to store or transfer outside of FL[DS]'s and its sub-processors' systems (for example, offline or on-premises storage).

V. Unauthorized Disclosure/Data Breach

- A. In the event of a Data Breach of the Covered Data while in Grantee's (or an Authorized Third Party's) custody or control or as a result of Grantee's (or an Authorized Third Party's) access to or use of the Covered Data, which requires the provision of notice in accordance with section 501.171, F.S., or other Applicable Law (including, but not limited to, HIPAA), the Parties agree as follows:
 - 1. Grantee shall notify FL[DS] of the Data Breach not more than 24 hours after discovery that a Data Breach has occurred or is reasonably likely to have occurred.
 - 2. Grantee (or its Authorized Third Party) shall be responsible for all costs related to the Data Breach including FL[DS]' and/or Grantee's (or an Authorized Third Party's) costs of complying with all legal requirements, including the requirements for Data Breach

notification under Applicable Law, as well as defending any claims, actions, or lawsuits related thereto.

1. If a Data Breach is subject to the notice provisions of section 501.171, F.S., or Applicable Law, the Parties agree to cooperate and work together to ensure full legal compliance and to provide breach notification to the extent required by Applicable Law. Grantee shall use its best and diligent efforts to identify the individuals entitled to receive notice of the Data Breach and obtain the names and mailing information of such individuals, so that FL[DS] and/or Grantee are able to distribute the notices within the legally required time periods. FL[DS] and/or Grantee, as applicable, shall bear its internal administrative and other costs incurred in identifying the affected individuals and their mailing information.
 2. In the event of a Data Breach, including the privacy or security of the Covered Data, while in the custody or control of the Grantee, if the Grantee must provide notice as a result of the requirements contained in section 501.171, F.S., or other Applicable Law, the Grantee shall submit a draft of the notice to FL[DS] for prior review and approval of the contents of the notice, prior to disseminating the notice. Such approval shall not be unreasonably delayed or withheld.
- B. If Grantee experiences a breach of the security of its systems that results in a breach of the security of FL[DS]'s systems ("FL[DS] Breach"), Grantee shall be responsible for all costs related to the FL[DS] Breach including FL[DS]'s costs of complying with all legal requirements, including any costs for data breach notification under section 501.171, F.S., or Applicable Law, as well as defending any claims, actions, or lawsuits against the FL[DS] related thereto. Grantee, at its own expense, shall cooperate fully with FL[DS] in the investigation, eradication, remediation, and recovery from the FL[DS] Breach.
- C. If FL[DS] experiences a breach of the security of its systems that results in a breach of the security of Grantee's systems ("Grantee Breach"), FL[DS] shall be responsible for all costs related to the Grantee Breach including Grantee's costs of complying with all legal requirements, including the requirements for data breach notification under section 501.171, F.S., or Applicable Law, as well as defending any claims, actions or lawsuits related thereto. FL[DS], at its own expense, shall cooperate fully with Grantee in the investigation, eradication, remediation, and recovery from the Grantee Breach.
- D. If either FL[DS] or Grantee is obligated under this Section to pay costs incurred by the other Party, the Party required to pay such costs shall submit a draft of the legal notifications and other public communications to the other Party for prompt review and approval of the contents prior to disseminating the notification or communication. Such approval shall not be unreasonably delayed or withheld.
- E. The Parties understand and agree the provisions of this DSA relating to the protection and security of the Covered Data constitute a material condition of this DSA.

VI. Additional Terms Applicable to Certain Circumstances.

- A. Grantee is responsible for their Covered Data and entering into any required additional agreements related thereto. Grantee shall provide the FL[DS] DSA Coordinator with written notice prior to granting Access to any of the data types listed in subsections B-E,

below, to FL[DS] or Software Entitlements. In the event of a conflict between the terms and conditions of this Article VI and the remainder of the DSA, the terms and conditions of Article VI shall control. Moreover, a Project may include the use of information described in more than one (1) of the provisions set forth in this Article VI, or it may include the use of information not described in this Article VI. In the event of a conflict between or among the terms and conditions of Subsections B, C, D or E of this Article VI, the more restrictive terms and conditions shall apply unless otherwise provided by Applicable Law or guidance by the applicable regulatory enforcement agencies or bodies.

A. **CJIS.** The terms and conditions of this Section VI.B. apply when Covered Data involved in a Project includes criminal justice information.

1. CJIS Covered Data. Covered Data may also include, but shall not be limited to, CJIS Covered Data. For purposes of this DSA, CJIS Covered Data shall mean criminal justice information that is provided by the Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) system and that is necessary for law enforcement and civil agencies to perform their missions, including, but not limited to, biometric, identity history, biographic, property, and case/incident history data.
2. Disclosure of CJIS Covered Data. The disclosure of CJIS Covered Data under the DSA, as modified by this section, is governed by the CJIS Security Policy, available at <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>. In accordance with the CJIS Security Policy and 28 CFR Part 20, use of the CJIS system under the DSA is restricted to: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, rehabilitation of accused persons or criminal offenders, and other legally authorized purposes.
3. Training. The Parties agree to work together to provide Authorized Users with confidentiality, privacy, and security training regarding access, use, and disclosure requirements for the CJIS Covered Data under the CJIS Security Policy.
4. Access Requirements. Unique authorization is required for Access to the CJIS Covered Data and must be properly authenticated and recorded for audit purposes, including CJIS security and other applicable audit requirements.

B. **HIPAA and State Protected Health Information.** The terms and conditions of this Section VI.C. apply when Covered Data involved in a Project includes protected health information (PHI) and such other sensitive health information, the disclosure of which may be limited or restricted by law, including, but not limited to, mental health and drug and alcohol related information.

1. PHI Covered Data. Covered Data may also include, but shall not be limited to, PHI Covered Data. For purposes of this DSA, “PHI Covered Data” shall mean “protected health information” or “PHI,” as such term is defined by HIPAA. PHI shall include, but shall not be limited to, any other medical or health-related information that is afforded greater protection under more restrictive federal or state law, including, but not limited to, the Substance Abuse and Mental Health Services Act (SAMSHA), located at 42 C.F.R. Part 2, the Florida Mental Health Act (the Baker Act), located at Fla. Stat. § 394.451 – 394.47892, and the Hal S. Marchman Alcohol and Other Drug Services Act, located at Fla. Stat. § 397.301 et seq.

1. Disclosure of PHI Covered Data. The disclosure of PHI Covered Data under the DSA, as modified by this section, is governed by HIPAA and more restrictive federal or state law, as applicable. Accordingly, the disclosure of PHI Covered Data under the DSA is permitted only with the consent of the individual who is the subject of the PHI Covered Data, by court order that meets the requirements of applicable law, and for other purposes as permitted by Applicable Law.
 2. Business Associate Agreement. To the extent that FL[DS] is a “Business Associate” of Grantee, as such term is defined under HIPAA, the Parties agree to enter into a mutually agreeable Business Associate Agreement.
 3. Training. The Parties agree to work together to provide Authorized Users with confidentiality, privacy, and security training regarding access, use, and disclosure requirements for the PHI Covered Data under HIPAA and more restrictive federal or state law, to the extent applicable.
 4. Access Requirements. Unique authorization is required for Access and must be properly authenticated and recorded for audit purposes, including HIPAA audit requirements and other audit requirements under more restrictive federal or state law, to the extent applicable.
- C. **FERPA**. The terms and conditions of this Section VI.D. apply when Covered Data includes student education records as defined by the Family Educational Rights and Privacy Act, 20 USC §1232g, and its implementing regulations set forth at 34 CFR Part 99 (collectively, “FERPA”).
1. FERPA Covered Data. Covered Data may also include, but shall not be limited to, FERPA Covered Data. For purposes of this DSA, “FERPA Covered Data” shall mean student education records as defined by FERPA).
 2. Disclosure of FERPA Covered Data. The disclosure of FERPA Covered Data under the DSA, as modified by this section, is governed by FERPA. Accordingly, the disclosure of FERPA Covered Data under the DSA is permitted with parent or eligible student consent and, without such consent, in the following circumstances: (i) to school officials with legitimate educational interest; (ii) to other schools to which a student is transferring; (iii) to specified officials for audit or evaluation purposes; (iv) to appropriate parties in connection with financial aid to a student; (v) to organizations conducting certain studies for or on behalf of the school; (vi) to accrediting organizations; (vii) to comply with a judicial order or lawfully issued subpoena; (viii) to appropriate officials in cases of health and safety emergencies; (ix) to state and local authorities, within a juvenile justice system, pursuant to specific state law; and (x) as otherwise provided by FERPA.
 3. Training. The Parties agree to work together to provide Authorized Users with confidentiality, privacy, and security training regarding access, use, and disclosure requirements for the FERPA Covered Data under FERPA.
 4. Access Requirements. Unique authorization is required for Access and must be properly authenticated and recorded for audit purposes, including FERPA and any other applicable audit requirements.

A. **DPPA.** The terms and conditions of this Section VI.E. apply when Covered Data includes motor vehicle record information.

1. DPPA Covered Data. For purposes of the DSA, Covered Data may include, but shall not be limited to, DPPA Covered Data. For purposes of this DSA, "DPPA Covered Data" shall mean motor vehicle information as set forth in the Driver Privacy Protection Act, 18 U.S.C. § 2721 ("DPPA").
2. Disclosure of DPPA Covered Data. The disclosure of DPPA Covered Data under the DSA, as modified by this section, is governed by DPPA. DPPA prohibits the disclosure of personal information, as defined in 18 U.S.C. § 2725(3), that is contained in motor vehicle records, but such information may be used by any government agency, such as FL[DS] and Grantee, in carrying out its functions. Such personal information may not be re-disclosed by FL[DS] or Grantee, however, except in accordance with the permissible uses set forth at 18 U.S.C. § 2721(b). With certain limited exceptions, DPPA further prohibits the disclosure of highly restricted personal information, as defined in 18 U.S.C. § 2725(4), without the express consent of the individual who is the subject of such information. In accordance with section 119.0712(2)(d)(2), F.S., the emergency contact information contained in a motor vehicle record, without the express consent of the person to whom such emergency contact information applies, may be released only to: (a) law enforcement agencies for purposes of contacting those listed in the event of an emergency; or (b) a receiving facility, hospital, or licensed detoxification or addictions receiving facility pursuant to sections 394.463(2)(a) or 397.6772(1)(a), F.S., for the sole purpose of informing a patient's emergency contacts of the patient's whereabouts. E-mail addresses that are collected by the Florida Department of Highway Safety and Motor Vehicles also may not be disclosed pursuant to Section 119.0712(2)(c), F.S.
3. Training. The Parties agree to work together to provide Authorized Users with confidentiality, privacy, and security training regarding access, use, and disclosure requirements for the DPPA Covered Data under DPPA and the Florida Statutes referenced above.
4. Access Requirements. Unique authorization is required for Access and must be properly authenticated and recorded for audit purposes, including, but not limited to, compliance with these terms and conditions.

VII. Designation of DSA Coordinators

A. The Coordinators for this DSA are:

FL[DS] DSA Coordinator:

Policy Manager
2555 Shumard Oak Boulevard
Tallahassee, FL 32399
Telephone: 850-413-0604
Email: <mailto:Policy@digital.fl.gov>

FL[DS] IT Coordinator:

State Cybersecurity Information Security Officer
2555 Shumard Oak Boulevard
Tallahassee, FL 32399
Telephone: 850-413-0604
Email: Cyber@digital.fl.gov

Grantee's DSA Coordinator:

Name: Lory B. Irwin
City/County of: City of Daytona Beach Shores
Street: 2990 S. Atlantic Ave.
Daytona Beach Shores, 32118
Telephone: (386) 763-5328
Email: lrwin@cityofdb.org

Grantee's IT Coordinator:

Name: Chris Wolfla
City/County of: City of Daytona Beach Shores
Street: 2990 S. Atlantic Ave.
Daytona Beach Shores, 32118
Telephone: (386) 763-7560
Email: cwolfla@cityofdb.org

- A. Changes to the DSA and/or IT Coordinator designations may be accomplished by providing email change notification that is acknowledged by both Parties.

VIII. Inspection of Records

Each Party shall permit the other Party and any other applicable state and federal representatives with regulatory oversight over the other Party, or their designees, to conduct inspections described in this paragraph, or to make on-site inspections of records relevant to this DSA to ensure compliance with any state and federal law, regulation, or rule. Such inspections may take place with notice during normal business hours wherever the records are maintained. Each Party shall ensure a system is maintained that is sufficient to permit an audit of such Party's compliance with this DSA and the requirements specified above. Failure to allow such inspections constitutes a material breach of this DSA. This DSA may be terminated in accordance with Section VII.C. for a material breach.

IX. Grantee Additional Terms

- A. Contractors. Grantee shall ensure all contractors that have Access to Covered Data or Software Entitlements comply with all requirements of this DSA. The Software Entitlements shall not be Accessible by, or deployed on, Information Technology Resources not owned, employed, or controlled by Grantee.

RELEVANT FLORIDA STATUTES (2022)

Section 282.3185, Florida Statutes (F.S.), the “Local Government Cybersecurity Act,” directs the Florida Digital Service (FL[DS]) to provide training in cybersecurity to local governments, oversee their compliance in adopting cybersecurity standards, and to receive cybersecurity incident and ransomware event notifications through the State Cybersecurity Operations Center. Such incident reporting must also include “[a] statement requesting or declining assistance from the Cybersecurity Operations Center, the Cybercrime Office of the Department of Law Enforcement, or the sheriff who has jurisdiction over the local government.” S. 282.3185, F.S.

Under Specific Appropriation 2944A of the 2022-2023 General Appropriations Act, FL[DS] was directed to establish a competitive cybersecurity technical assistance grant program for municipalities and counties.

Section 119.0725, F.S., establishes that coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of information technology systems, operational technology systems, or data of entities subject to the requirements of section 119.07(1), F.S., and section 24(a), Article I of the State Constitution; information relating to existing or proposed information technology and operational technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety; cybersecurity incident information reported under section 282.3185, F.S.; network schematics, hardware and software configurations, or encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches, if the disclosure of such information would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data or information, whether physical or virtual, or information technology resources, which include an agency’s existing or proposed information technology systems; and the recordings and transcripts of public meetings where such information may be revealed are confidential and exempt, and such public meetings are exempt from section 286.011, F.S., and section 24(b), Article I of the State Constitution.

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Exhibit A

Cybersecurity Incident Response Rider

I. Definitions

In addition to the defined terms in the DSA, capitalized terms used herein have the meanings provided below:

- A. Cloud Console – The global administrative accounts for Software Entitlements directly managed and licensed by FL[DS].
- B. Customer Account – The accounts for Software Entitlements directly utilized by Grantee.
- C. Information Technology Resources – As defined in section 282.0041, Florida Statutes, data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training. As used in this IR Rider, the term also includes the definition for “Information Technology,” as defined in section 282.0041, Florida Statutes, to add equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.
- D. Managing Organization – The entity managing the use of the Software Entitlements and their Cloud Consoles. As used in this IR Rider, the Managing Organization is FL[DS].
- E. Protected Grantee Data – Data, not including Telemetry Data, maintained and generated by Grantee, which shall not be Accessed or Accessible by, or sent to, Software Entitlements.
- F. Solution Data – Data, reports, or other information generated by Software Entitlements. This may be derived from, but does not include, Telemetry Data.
- G. Telemetry Data – Data generated by Grantee through automated communication processes from multiple data sources and processed by Software Entitlements.
- H. View - The permissions Grantee grants to FL[DS] to see Telemetry and Solutions Data provided to the Managing Organization by Customer Accounts. A View does not permit FL[DS] Access to Protected Grantee Data.

II. Purpose

FL[DS] and Grantee enter into this IR Rider to establish the terms and conditions for FL[DS] access to assist Grantee with responding to incidents.

I. Incident Response

A. **Incident Response Support.** As specified in section 282.3185(5), F.S., upon discovery of an incident, Grantee may request, or FL[DS] may offer to provide, incident response support. Access to Grantee Information Technology Resources shall be limited to the extent expressly agreed to by Grantee. Such Access and support are unilaterally terminable at any time by either Party. FL[DS] may establish, and Grantee shall comply with, protocols or procedures for reporting and requesting support for incidents under this IR Rider, responding to incidents, and the types of support available to be provided for an incident. Grantee shall mitigate the impact of the incident and preserve all relevant documents, records, and data. Grantee shall cooperate and coordinate with FL[DS] in responding to incidents where incident response support is received, including, but not limited to:

1. Assisting with any incident response related investigation by FL[DS];
2. Providing FL[DS] with physical access to the affected facilities and operations;
3. Facilitating interviews with Grantee personnel; and
4. Making all relevant records, logs, files, data reporting, and other materials available to FL[DS] or Grantee-authorized third parties.

FL[DS] shall only Access Covered Data, other Grantee data, and Grantee Information Technology Resources as permitted by Grantee. Any specific limitations on such Access shall be documented.

Upon termination of each instance of incident response support, regardless of the reason for such termination, Grantee shall assist FL[DS] with any close-out or post-incident documentation upon request.

B. **Covered Data and Personally Identifiable Information.** FL[DS] will not disclose Covered Data or other data made Accessible during incident response support to any third party unless required by law or as authorized by Grantee. In the event such data is required by law to be disclosed, FL[DS] shall make best efforts to notify Grantee prior to such disclosure.

II. FL[DS] Role and Responsibilities

FL[DS] shall provide Grantee with the option to utilize the Software Entitlements to enhance the Grantee's cybersecurity and protect the Grantee's infrastructure from threats.

FL[DS] will Access a View of the Telemetry Data and Solution Data. FL[DS] will only use Telemetry and Solutions Data for the purpose of developing and implementing the Program; identifying and responding to risks and incidents; and in furtherance of meeting FL[DS]' and Grantee's statutory and regulatory obligations. FL[DS] will not disclose the Telemetry Data and Solutions Data to any third party unless required by law or as otherwise authorized by Grantee. FL[DS] will provide incident response services and resources as allowed and agreed to by FL[DS] and Grantee in responding to risks and incident.

I. Grantee Roles and Responsibilities

Grantee shall cooperate with and provide all assistance necessary to FL[DS]' incident response support.

II. Indemnification

For the avoidance of doubt, the Grantee agrees to indemnify FL[DS] and the Department for any claims related to this rider pursuant to the terms provided in section R., Indemnification, of the Grant Agreement.

III. Conflict

In the event of a conflict between this IR Rider, the DSA, and any other rider, the terms of this IR Rider shall control.

IV. Liability and Termination of Incident Response Support

Except as described in the DSA or other riders, incident response services and resources of FL[DS] or Grantee-authorized third parties shall be provided by FL[DS] without warranty by, and without liability to, FL[DS] or such Grantee-authorized third parties. Upon request, FL[DS] or Grantee-authorized third parties shall provide reasonable assistance to return Grantee Information Technology Resources to the operational status prior to the involvement of FL[DS] incident response support.

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Exhibit B
Solution Rider

I. Definitions

In addition to the defined terms in the DSA, capitalized terms used herein have the meanings provided below:

- A. Protected Grantee Data – Data, not including Telemetry Data, maintained, and generated by Grantee, which shall not be Accessed or Accessible by, or sent to, the Licensed Software Solution.
- B. Customer Account – The Licensed Software Solution account directly utilized by Grantee.
- C. Local Government Cybersecurity Grant Program (“the Program”) –The Program established by the 2022-2023 General Appropriations Act to improve county and municipal cybersecurity posture and resiliency.
- D. Licensed Software Solutions – Proprietary software provided to the Grantee under the Agreement to satisfy provision of the solution(s) awarded to the Grantee, as identified in Attachment A.1 of the Grant Agreement.
- E. Managing Organization – The entity managing the use of the Licensed Software Solution and its implementation. As used in this Rider, the Managing Organization is FL[DS].
- F. Protected Grantee Data – Data, not including Telemetry Data, maintained, and generated by Grantee, which shall not be Accessed or Accessible by, or sent to, the Licensed Software Solution.
- G. Solution Console – The global administrative account(s) directly managed and licensed by FL[DS] to provide the Grantee with the Software Entitlement.
- H. Solution Data – Data, reports, or other information generated by the Licensed Software Solution. May be derived from but shall not include Telemetry Data.
- I. Telemetry Data –The data generated by Grantee through automated communication processes from multiple data sources and processed by the Licensed Software Solution.
- J. View – The permissions granted for FL[DS] to see Telemetry Data provided to the Managing Organization’s Solution Console by the Customer Account. A View does not permit FL[DS] Access to Protected Grantee Data.

II. Statement of Work

- A. **Purpose/Scope:** FL[DS] and Grantee enter into this Rider to establish the terms and conditions for Grantee Access to the Licensed Software Solution provided by FL[DS]; to establish the maintenance, use, and disclosure of the Telemetry Data generated by

Grantee and uploaded to the Solution Console; and to provide terms and conditions for the use of the Licensed Software Solution.

- A. **FL[DS] Role and Responsibilities:** FL[DS] is responsible for providing Grantee with the option to utilize the Licensed Software Solution.

FL[DS] shall be permitted to Access a View of the Telemetry Data provided within the Solution Console via permissions to the Customer Account.

FL[DS] will only use Telemetry Data for the express purpose of developing and implementing the Program and in furtherance of FL[DS]' and Grantee's statutory and regulatory obligations. FL[DS] will not disclose the Telemetry Data to any third party unless required by law or as otherwise authorized by Grantee.

- B. **Grantee's Role and Responsibilities:** Grantee is responsible for:

- a. Grantee Access to and use of the Licensed Software Solution in compliance with all terms and conditions related thereto, including the Agreement terms and the vendor terms and conditions to be provided to the Grantee by FL[DS] without need for an amendment hereto by the Parties and which, after provision thereof, will be deemed incorporated herein and a material component hereof;
- b. Activating and deactivating the Access, credentials, and privileges of its authorized users;
- c. Ensuring no Protected Grantee Data is submitted to the Licensed Software Solution;
- d. Entering into any additional agreement with FL[DS], the Licensed Software Solution provider, or other third-parties as may be required by law regarding Protected Grantee Data, as applicable; and
- e. Managing access controls to allow View by FL[DS] and Access by the Licensed Software Solution.

Telemetry Data, even as it may be housed, maintained, or processed by the Licensed Software Solution, is and shall remain the property of Grantee.

- C. **Indemnification:** For the avoidance of doubt, the Grantee agrees to indemnify FL[DS] and the Department for any costs related to Grantee's use of the Licensed Software Solution pursuant to the terms provided in section R., Indemnification, of the Grant Agreement.
- D. **Conflict:** In the event of a conflict between this Rider and the DSA, the terms of this Rider shall control.

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PLANNING & ZONING BOARD AGENDA MEMORANDUM MAY 23, 2023 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Noel Eaton, Planner

PREPARED BY: Noel Eaton, Planner

SUBJECT: Ordinance 2023-03: Tour Service Conditional Use and Live/Work Facilities.

SYNOPSIS:

Ordinance 2023-03, if approved, would amend Section 2-2 entitled "General Definitions" and Section 14-58 entitled "Special Exceptions and Conditional Uses," of the City's Land Development Code to create associated definitions and conditions of a tour service conditional use in the GC-RD zoning district and amend the live/work facility conditional use requirements. This amendment is an administrative amendment proposed by staff, with direction from the City Commission (minutes attached), consistent with Objective A.2 of the City of Daytona Beach Shores Strategic Plan, which calls for the removal of land development regulations that are obstacles to desired redevelopment and to enable or promote desired redevelopment.

The proposed regulations contained in Ordinance 2023-03 (attached) are consistent with the City's adopted Comprehensive Plan Update (2030). Among other things, the proposed ordinance would accomplish the following:

1. Define a tour service.
2. Permit a tour service as a conditional use in the GC-RD District to be approved conditionally by the City Manager, or designee. Existing structures may be used or new structures may be constructed to meet this end.
3. Create a submission, review and operational criteria and regulations governing the establishment and operation of tour service facilities in the GC-RD District.
4. Amend the existing live/work facility requirements to permit owners and daily operators to occupy the residential components of live/work facilities as a conditional use in commercial districts (GC-RD, GC-1 and GC-2 districts), providing specific requirements are met. Existing structures may be used or new structures constructed to meet this end.
5. Amend the existing live/work facility requirements to require a minimum of seven hundred (700) square feet of residential space. Existing structures may be used or new structures constructed to meet this end.

A public hearing was held before the Planning and Zoning Board on May 8th, 2023. The Board recommended approval of Ordinance 2023-03 with the amendment that a Restaurant Use be established on

the same property as a Tour Service use within nine (9) months of the issuance of a valid certificate of use for a Tour Service.

FISCAL IMPACT STATEMENT:

No fiscal impact

BACKGROUND:

Recently, potential buyers have inquired about opening a tour service establishment in the GC-RD to fill a vacant storefront. Currently, the City's Land Development Code (LDC) does not recognize a tour service use and therefore is not permitted in any zoning district in the city.

On April 11, 2023, at the request of a prospective business, "Joyride Beachside", the City Commission directed staff to begin work on amending the City's Land Development Code to permit tour service businesses within GC-RD zoning district and amend the live/work facility requirements (minutes attached).

Further, in 2012 the City Commission approved Ordinance 2012-04 which allowed live/work facilities as conditional uses in commercial zoning districts under certain requirements. Over the years and even recently, business owners and potential buyers have inquired and requested the authorization of residential components that are less than the minimum 800 square feet required under the current regulations. Over time and through different ownerships, including out of city or even out of state owners, the owner-occupied residential component of the live/work facilities could not support the daily operators of the associated business under the current requirements which states only bona fide owners shall occupy the residential component.

Considering (1) the history of Daytona Beach Shores, (2) requests made, (3) the current and foreseen state of the economy, (4) the layout and built environment of the City, and (5) direction from the City Commission, staff drafted proposed Ordinance 2023-03, which would establish a tour service conditional use with associated requirements and permit owners or daily operators to occupy live/work facilities with a minimum of 700 square feet of residential space in the commercial districts, given certain conditions are met.

The staff report (attached) further analyzes the amendments and potential properties that could benefit from the proposed changes in Ordinance 2023-03.

A public hearing was held before the Planning and Zoning Board on May 8th, 2023. The Board recommended approval of Ordinance 2023-03 with the amendment that a Restaurant Use be established on the same property as a Tour Service use within nine (9) months of the issuance of a valid certificate of use for a Tour Service.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2023-03 as presented.

The Planning and Zoning Board recommended approval of Ordinance 2023-03 with the amendment that a Restaurant Use be established on the same property as a Tour Service use within nine (9) months of the issuance of a valid certificate of use for a Tour Service.

SUGGESTED MOTION:

A City Commissioner may motion as follows:

1. "I move to approve Ordinance 2023-03 as presented."

OR

2. "I move to approve Ordinance 2023-03, with the following amendments..."

OR

3. "I move to deny Ordinance 2023-03, on the basis of the following..."

- ATTACHMENT:**
1. ORD 2023-03-LDC TEXT AMENDEMENT-TOUR SERVICE
CONDITIONAL USE IN THE GC-RD & LIVE WORK FACILITY
REQUIREMENTS
 2. STAFF REPORT-ORD 2023-03-City Commission
 3. pz minutes 5-8 -23
 4. City Commission Minutes April 11, 2023
 5. DBS Zoning Maps
 6. Proof of Publication

ORDINANCE 2023-03

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO THE CREATION OF A TOUR SERVICE CONDITIONAL USE; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G” CHAPTER 2 ENTITLED “DEFINITIONS” BY AMENDING SECTION 2-2 ENTITLED “GENERAL DEFINITIONS” BY CREATING ASSOCIATED DEFINITIONS FOR A TOUR SERVICE CONDITIONAL USE; AMENDING CHAPTER 14 ENTITLED “ZONING REGULATIONS” BY AMENDING SECTION 14-58 ENTITLED “SPECIAL EXCEPTIONS AND CONDITIONAL USES” TO ESTABLISH THE USE AND ASSOCIATED CONDITIONS OF A TOUR SERVICE CONDITIONAL USE IN THE GC-RD (GENERAL COMMERCIAL-REDEVELOPMENT DISTRICT) AND AMENDING THE GENERAL AND FACILITY REQUIREMENTS OF A LIVE/WORK FACILITY CONDITIONAL USE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Daytona Beach Shores to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Section 163.3202, *Florida Statutes*, provides that the City of Daytona Beach Shores shall adopt and enforce land development regulations for the purpose of implementing its comprehensive plan and protecting the public health, safety, and general welfare; and

WHEREAS, the GC-RD (General Commercial-Redevelopment District) zoning district encourages redevelopment of properties; and

WHEREAS, there are twenty two (22) vacant properties/storefronts in the GC-RD zoning district; and

WHEREAS, there are atypical buildings previously housing non-conforming uses in the GC-RD district; and

WHEREAS, a car wash facility is not a permitted use in the GC-RD zoning district; and

WHEREAS, a tour service is a desired form of redevelopment in Daytona Beach Shores; and

WHEREAS, a tour service is not a use permitted in the City's Land Development Code; and

WHEREAS, a tour service use could provide residents and tourists historical and current information about the City of Daytona Beach Shores, its businesses and amenities, and the surrounding communities and attractions; and

WHEREAS, live/work facilities are a desired conditional use in qualifying structures in commercial zoning districts in Daytona Beach Shores; and

WHEREAS, the current live/work facility requirements do not allow potential live/work facilities with residential components smaller than the minimum eight hundred (800) square feet required; and

WHEREAS, smaller residential components of live/work facilities are similarly acceptable for housing; and

WHEREAS, the current live/work facility requirements only allow owners of the associated business to utilize the residential component of said live/work facility; and

WHEREAS, expanding the live/work facility criteria under certain conditions to allow daily operators of a business to utilize the residential component of said live/work facilities provides similar value to the area as allowing property owners; and

WHEREAS, the Objective A.2 of the City of Daytona Beach Shores Strategic Plan (2019) calls for the removal of land development regulations which are obstacles to desired redevelopment and to enable or promote desired redevelopment; and

WHEREAS, on April 11, 2023 the City Commission directed staff to create an Ordinance which amends the Land Development Code to establish the tour service conditional use and amend the live/work facility conditions; and

WHEREAS, this Ordinance is consistent with the goals, objectives, and policies of the *Comprehensive Plan of the City Daytona Beach Shores*; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

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

SECTION ONE: LEGISLATIVE FINDINGS AND DETERMINATIONS.

(a). The City staff report and City Commission agenda memorandum relating to this matter are hereby adopted as if fully set forth herein.

(b). The City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(c). The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the City Commission of the City of Daytona Beach Shores and incorporated into this Ordinance as if set forth *in haec verba*.

(d). This Ordinance is an exercise of the City of Daytona Beach Shores' powers as a municipality under the provisions of Article VIII, Section 2 of the *Constitution of the State of Florida*; Chapter 163, *Florida Statutes*; Chapter 166, *Florida Statutes*, and other applicable law.

SECTION TWO: The City Commission of the City of Daytona Beach Shores hereby amends the *Land Development Code*, Chapter 2, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Definitions” as follows:

CHAPTER 2. DEFINITIONS

Sec. 2-2. General definitions.

Daily operator: A person employed to manage or operate an established business during normal and regular business hours.

Golf cart: A motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and is not capable of exceeding speeds of 20 miles per hour.

Low-speed vehicle: A four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

Tour vehicle: A special-purpose passenger vehicle, designed to transport no more than twelve (12) passengers plus the driver, provided however, low speed vehicles shall be limited to no more than six (6) passengers plus the driver, and used exclusively to

transport said passengers from a point of origin to various points of interest and return them to the same or a different specified location. Such term shall not include motorbuses and coaches legitimately engaged in interstate or intercity tourist transportation provided that the transportation commences outside Volusia County, Florida

Tour service: A special-purpose passenger vehicle for hire service which uses tour vehicles to transport passengers upon any public road having a posted maximum speed limit of 35 miles per hour.

SECTION THREE: The City Commission of the City of Daytona Beach Shores hereby amends the *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Special exceptions and conditional uses” as follows:

CHAPTER 14.- ZONING REGULATIONS

ARTICLE VIII. SUPPLEMENTARY REGULATIONS

Sec. 14-58. Special exceptions and conditional uses.

14-58.2.1.B. Live/Work Facilities.

Any conditional use permit issued for live/work facilities shall be subject to the following criteria:

1. Administrative Approval.

- a. The city manager, or designee, shall have the power and authority to notice, review and administratively approve all live/work conditional use applications.
- b. Approvals shall be implemented by means of a development order.
- c. Denials shall be implemented by a denial development order consistent with the provisions of F.S. § 166.033, and other controlling law.

2. General Requirements.

- a. Only bona fide owners or daily operators of the business associated with the live/work facility may occupy the living unit portion of the live/work facility.
- b. No portion of a live/work facility may be separately rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises.

- c. All facilities proposing a live/work facility uses must be awarded a business tax receipt and a certificate of use permit by the city and must maintain such matters in current status. Proof of working status shall be submitted in conjunction with a certificate of use permit application and provided as requested by the administrative official.
- d. Lots or parcels with an approved live/work facility shall not be combined with another lot or parcel containing or proposing an additional live/work facility.
- e. The termination, closing or abandonment of the work or commercial portion of a live/work facility shall cause the immediate revocation of the live/work conditional use permit without any action being taken by the city.

3. *Facility Requirements.*

- a. Live/work facilities shall only be located in singular buildings with two (2) floors on an approved lot or parcel of land.
- b. The live/work facility shall comply with the Florida Building Code and National Fire Prevention Act requirements applicable to the co-location of uses at the particular site.
- c. Live/work facilities may not be changed or converted to residential use greater than the approved work or commercial square footage.
- d. Ground floors shall not be used for residential or living purposes.
- e. Residential units shall have a minimum floor area of ~~eight hundred (800)~~ seven hundred (700) square feet.
- f. Commercial units shall have a minimum floor area of eight hundred (800) square feet.

14-58.2.2 Conditional Uses Permitted in the GC-RD district.

The following uses are permitted as conditional uses in the GC-RD district subject to the provisions of this code.

14-58.2.2.A. Tour service.

- 1. Tour Service. Tour services may be allowed as a conditional use in the GC-RD zoning district consistent with regulations of this section.
- 2. Notice, Review and Approval.
 - a. Administrative Approval: The city manager shall have the power and authority to notice, review, and administratively approve tour service conditional use applications provided the regulations of this section are met.
 - b. Approvals shall be implemented by means of a development order.
 - c. Denials shall be implemented by a denial development order consistent with the provisions of F.S. § 166.033, and other controlling law.

3. Submission Requirements. In addition to the conditional use application submission requirements of this code, the applicant for a tour service conditional use permit shall submit a floor plan, building elevation, parking plan, location of ready-for-use and stored tour vehicles, landscape plan, proposed tour route(s), and product description of all tour vehicles to be used in operation.
4. Review Criteria.
 - a. Tour services may only be permitted in conjunction with a bona fide restaurant establishment.
 - b. All facilities proposing tour services shall have been awarded a current and valid certificate of use permit for the restaurant use located on the property.
 - c. Proposed development and operations, including parking, shall be consistent with this code.
 - d. Tour service facilities shall provide a minimum 20% green area in the front yard.
5. Location
 - a. Tour service facilities shall be located in the "GC-RD" General Commercial-Redevelopment District.
6. Minimum Lot Size
 - a. Twenty thousand (20,000) square feet.
7. Minimum Lot Width
 - a. Seventy-five (75) feet.
8. Permitted Accessory Uses.
 - a. Accessory uses, including storage of tour vehicles and maintenance and servicing of tour vehicles, shall be conducted entirely within a completely enclosed structure completely out of public view from adjacent rights-of-way.
 - b. Maintenance and servicing vehicles which are not tour vehicles is prohibited.
9. Parking.
 - a. Off-street parking shall be consistent with section 14-48 of this code.
 - b. Employee/owner parking shall be in the rear of the property out of public view from adjacent rights-of-way.
 - c. Tour vehicles shall not be parked, staged, standing or placed in off-street parking areas or driveways/drive aisles.
10. Signage.
 - a. Signage on or through the windows of the principal building shall be limited to twenty-five (25) percent of the total window area.

- b. All other signage shall conform with Chapter 6 of this code.

11. Operation of Tour Service and Appearance Standards.

- a. All facilities proposing tour services shall obtain a valid certificate of use permit.
- b. All tour vehicles shall be stored in a completely enclosed building and at no point shall tour vehicles which are not in use be visible from the public right of way.
- c. The operation of a tour service shall not cause a public nuisance and the operation shall not interfere with the circulation of pedestrian or vehicular traffic on adjoining rights of way or offsite destinations or drop-off locations.
- d. A tour service facility shall only be used and operated in conjunction with a bona fide restaurant located on the same property.
- e. All tour vehicles and accessories shall be maintained in good working condition and comply with the requirements of F.S. Chapter 316, 320, and other controlling law.
- f. Tour service facilities shall comply with the Florida Building Code and National Fire Prevention Act requirements.
- g. Each application to conduct a tour service in a structure that lawfully existed prior to the effective date of this ordinance shall be accompanied by a proposed landscape plan for the property. This plan, upon approval, shall be included as a condition in the development order approving the use.
- h. Each application to conduct a tour service conditional use in a structure built subsequent to the effective date of the ordinance from which this section is derived shall meet the following standards:
 - (1) The principal structure shall be designed, constructed, and treated with a uniform theme or architectural style approved by the city, based upon sound and generally accepted land use planning practices and principles, when elevation is visible from a public right-of-way or a residential district. The burden of proof shall be on the applicant to meet this requirement.
 - (2) Accessory structures, including but not limited to fences, walls, detached buildings and dumpster enclosures, shall be consistent with the approved architectural treatment and style of the principal building so as to create a uniform architectural style and appearance as determined by the city, based upon sound and generally accepted land use planning practices and principles. The burden of proof shall be on the applicant to meet this requirement.
 - (3) Accessory structures noted above and fronting a public right-of-way or a residential district shall be fully treated.

12. Lighting.

- a. Neon lighting on buildings and structures are prohibited and unlawful.
- b. All lighting shall conform to the Volusia County Sea Turtle Lighting Regulations.
- c. Glare and direct lighting shall not project offsite.

13. Outdoor Activities.

- a. Unless otherwise authorized by this code and permitted by the city, all work activities and storage shall take place in fully enclosed areas.

14. Outdoor Displays.

- a. The display of any merchandise, tour vehicle, or accessory outside the principal building is prohibited and unlawful.
- b. Outdoor displays and events in conformance with Chapter 16 ³/₄, Sec. 14-60.2., and Sec. 14-60.3 of this code are permitted.

SECTION FOUR: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the regulation of the matters and uses which are the subject of this Ordinance are hereby ratified and affirmed.

SECTION FIVE: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections One, Four, Five, Six, Seven and Eight shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

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

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

SECTION EIGHT: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

GRETCHEN R. H. VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2023.

Adopted on second reading this _____ day of _____, 2023.

	PLANNING STAFF REPORT
SUBJECT:	Ord. 2023-03: Tour Service Conditional Use and Live/Work Facilities.
IMPACTED AREA:	Tour Service Conditional Use: GC-RD Live/Work Facilities Conditional Use: GC-1, GC-2, and GC-RD
APPLICANT:	City of Daytona Beach Shores
CONTACT:	Noel Eaton, City Planner: Tel. (386) 763-5376
SUMMARY:	Ordinance 2023-03 would amend Section 2-2 entitled “General Definitions” and Section 14-58 entitled “Special Exceptions and Conditional Uses,” of the City’s Land Development Code to create associated definitions and conditions of a tour service conditional use in the GC-RD zoning district and amend the live/work facility conditional use requirements.
RECOMMENDATION:	Approval

A. BACKGROUND

Small businesses, vacant properties, and tenant spaces have been challenged with changes in local, regional, and national economic and demographic conditions. The City of Daytona Beach Shores is no exception to this fact. Over the past twenty years, the City’s gradual transition from a resort to a more residential community and the aforementioned circumstances, have resulted in many small businesses closing down or relocating; today there are nine (9) vacant parcels and thirteen (13) vacant storefronts in the GC-RD (General Commercial-Redevelopment District) alone and a total of eighteen (18) vacant parcels in all three commercial zoning districts.

Recently, potential buyers have inquired about opening a tour service establishment in the GC-RD to fill a vacant storefront. Currently, the City’s Land Development Code (LDC) does not recognize a tour service use and therefore is not permitted in any zoning district in the city.

On April 11, 2023, at the request of a prospective business, “Joyride Beachside”, the City Commission directed staff to begin work on amending the City’s Land Development Code to permit tour service businesses within GC-RD zoning district and amend the live/work facility requirements (minutes attached). Ordinance 2023-03 articulates the discussion and intent of the City Commission to permit and provide land development regulations regarding tour service conditional uses in the GC-RD.

Further, in 2012 the City Commission approved Ordinance 2012-04 which allowed live/work facilities as conditional uses in commercial zoning districts under certain requirements. Over the years and even recently, business owners and potential buyers have inquired and requested the

authorization of residential components that are less than the minimum 800 square feet required under the current regulations. Over time and through different ownerships, including out of city or even out of state owners, the owner-occupied residential component of the live/work facilities could not support the daily operators of the associated business under the current requirements which states only bona fide owners shall occupy the residential component.

Considering (1) the history of Daytona Beach Shores, (2) requests made, (3) the current and foreseen state of the economy, (4) the layout and built environment of the City, and (5) direction from the City Commission, staff drafted proposed Ordinance 2023-03, which would establish a tour service conditional use with associated requirements and permit owners or daily operators to occupy live/work facilities with a minimum of 700 square feet of residential space in the commercial districts, given certain conditions are met.

B. PROPOSED ORDINANCE

The proposed regulations contained in Ordinance 2023-03 (attached) are consistent with the City's adopted Comprehensive Plan Update (2030). Among other things, the proposed ordinance would accomplish the following:

1. Define a tour service.
2. Permit a tour service as a conditional use in the GC-RD District to be approved conditionally by the City Manager, or designee. Existing structures may be used or new structures may be constructed to meet this end.
3. Create a submission, review and operational criteria and regulations governing the establishment and operation of tour service facilities in the GC-RD District.
4. Amend the existing live/work facility requirements to permit owners and daily operators to occupy the residential components of live/work facilities as a conditional use in commercial districts (GC-RD, GC-1 and GC-2 districts), providing specific requirements are met. Existing structures may be used or new structures constructed to meet this end.
5. Amend the existing live/work facility requirements to require a minimum of seven hundred (700) square feet of residential space. Existing structures may be used or new structures constructed to meet this end.

Table 1 below provides a summary of the requirements for Ordinance 2023-03 that were requested by the City Commission at the April 11th City Commission meeting.

Table 1: City Commission requested regulations for Ordinance 2023-03.

Requested Regulation	ORD 2023-03
Restaurants uses should be established prior to or in conjunction with a Tour Service.	<u>Tour services may only be permitted in conjunction with a bona fide restaurant establishment.</u>
Increased landscaping and landscaping plan required.	<u>Submission Requirements. In addition to the conditional use application submission requirements of this code, the applicant for a tour service conditional use permit shall submit a floor plan, building elevation, parking plan, location of ready-for-use and stored tour vehicles, landscape plan, proposed tour route(s), and product description of all tour vehicles to be used in operation.</u> <u>Tour service facilities shall provide a minimum 20% green area in the front yard.</u>
Tour vehicles shall not be seen from the rights of ways.	<u>All tour vehicles shall be stored in a completely enclosed building and at no point shall tour vehicles which are not in use be visible from the public right of way.</u>
Daily operators utilizing live/work facilities shall provide proof of employment.	All facilities proposing a live/work facility uses must be awarded a business tax receipt and a certificate of use permit by the city and must maintain such matters in current status. <u>Proof of working status shall be submitted in conjunction with a certificate of use permit application and provided as requested by the administrative official.</u>

Note: Underlined text indicates addition to the Land Development Code.

C. SUMMARY ANALYSIS

BENEFITS OF TOUR SERVICES

Tour services have been introduced and regulated in large and small cities throughout the country. Tour services showcase both historic and current tourist attractions. Daytona Beach Shores and its neighboring communities experience tourism and have many diverse tourist attractions including but not limited to, the beaches, historic hotels, restaurants and the overall history and community impacts that are directly related to racing on the beaches in the 1900's. In general, increasing tourism by permitting tour services could lead to the following benefits:

Planning Staff Report

Ord. 2023-03: Establish a tour service as a conditional use in the GC-RD and amend the general and facility requirements of live/work facilities.

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May 23, 2023

Patron Benefits: Tours are conducted by trained professional drivers and provide point to point service for customers while showcasing historic and current attractions, restaurants, hotels, and amenities that serve the residents and tourists that live in or visit Daytona Beach Shores and its surrounding communities; etc.

Business Benefits: Increased positive business presence and community image by developing relationships with local businesses and restaurants that can be showcased through the tour service; etc.

Community Benefits: Increased tourism and knowledge of the community; economic investment stimulated; community development and enhancement; commercial neighborhoods may become revitalized; empty buildings become occupied; properties are enhanced and better maintained; neighborhoods become vibrant and more appealing; added value to certain properties and overall neighborhood; etc,

BENEFITS OF LIVE/WORK FACILITIES

Live/work facilities have been an integral component of small well-knit communities for years and have operated successfully in Daytona Beach Shores since 2012. Live/work facilities are a form of mixed-use that provides a housing and employment option that is transportation efficient and low impact on adjacent neighborhoods. In general, live/work facilities with residential components that are 700 square feet or more and permit owners and daily operators to utilizes the residential component have similar benefits in the community and could lead to the following benefits:

Patron Benefits: Enhanced shopping experience and lower prices.

Owner/Daily Operator-Business Benefits: Increased savings/profits, increased reliable workforce, no commute resulting in time and fuel/energy savings; positive business and community image, increased security and pride in overall appearance of property; etc.

Community Benefits: Mixed use housing type still maintained; economic investment stimulated; community development and enhancement; neighborhoods may become revitalized; owners or daily operators become stakeholders in community; empty buildings become occupied; properties are enhanced and better maintained; neighborhood becomes vibrant and more appealing; added value to certain properties and overall neighborhood; etc,

PRACTICAL APPLICATION AND POTENTIAL IMPACT

Table 2 below analyzes and provides a summary of the properties in the GC-RD district that could benefit from the tour service conditional use proposed in Ordinance 2023-03 and **Table 3** analyzes and provides a summary of properties in all commercial districts that could benefit form the live/work facility updates proposed in Ordinance 2023-03

Table 2: Tour Service Summary Land Use Analysis-GC-RD.

Planning Staff Report

Ord. 2023-03: Establish a tour service as a conditional use in the GC-RD and amend the general and facility requirements of live/work facilities.

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May 23, 2023

Land Use	Amount
Vacant storefronts in the GC-RD zoning district.	13
Vacant parcels in the GC-RD zoning district.	9
Vacant commercial parcels/storefronts that meet the minimum lot dimensions for a tour service under Ord. 2023-03	9
Potential properties in the GC-RD district benefiting from Ord. 2023-03	9

Table 3: Live/Work Summary Land Use Analysis-GC-1, GC-2, and GC-RD.

Land Use	Amount
Two-story buildings w/ active residential occupancy* and commercial use	7
Two-story buildings w/ active residential occupancy* and no commercial use	3
Other two-story buildings that could qualify for live/work under Ord. 2023-03	6
Vacant commercial parcels that could qualify for live/work under Ord. 2023-03	18
Potential commercial properties benefiting from Ord. 2023-03	34

Note: * These units are “grandfathered” and it is uncertain how many of these units are owner occupied.

Currently, there are 9 properties in the GC-RD that are vacant or have vacant storefronts that meet both the proposed 75’ foot lot width requirement and the 20,000 square feet lot area requirement and could potentially support a tour service conditional use.

Staff could identify 34 commercial properties that either have a vacant two-story structure, have existing “grandfathered” residential, or are vacant and could benefit from the proposed changes of live/work facilities contained in Ordinance 2023-03.

D. PLANNING AND ZONING BOARD

A public hearing was held before the Planning and Zoning Board on May 8th, 2023. The Board recommended approval of Ordinance 2023-03 with the condition that a Restaurant Use be established on the same property as a Tour Service use within nine (9) months of the issuance of a valid certificate of use for a Tour Service.

E. STAFF RECOMMENDATION

Staff recommends approval of Ordinance 2023-03 as presented.

MINUTES
PLANNING & ZONING BOARD MEETING
May 8, 2023
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

Present: Member Guy Desai, Member Rick Delange, Member James Lilly, Member Chuck Horion. **Member Excused:** Jeni Groot-Begnaud. **Member Absent:** Rose Ann Tornatore.
Staff: City Clerk Cheri Schwab, City Attorney Paul Waters, Community Services Director Stewart Cruz and City Planner Noel Eaton.

2. MINUTES

A. Planning & Zoning Minutes April 10, 2023

MEMBER CHUCK HORION moved, seconded by MEMBER JAMES LILLY to Approve the Planning & Zoning Minutes of April 10, 2023.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 0).

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Guy Desai

3. QUASI-JUDICIAL HEARING

A. Ordinance 2023-03: Tour Service Conditional Use and Live/Work Facilities.

City Planner Noel Eaton began by stating that the agenda item was not a quasi-judicial item. Board Attorney Paul Waters read the ordinance by title. Ms. Eaton gave a brief review of the proposed amendments that were included in the ordinance. The items included: the definition of tour service, establishing tour service as a conditional use, permit a tour service as a conditional use in the GCRD district, permit a tour service to be approved by the City Manager, create a review and operational criteria for tour services, amend the live/work facility requirements to allow daily operators to occupy the residential component, and finally to amend the live/work facility to require a minimum of seven hundred (700) square feet of residential space. At the April 11th City Commission meeting, they requested staff bring back an ordinance to address the creation of a tour service. They also had a few requirements that included; a restaurant operating on the property with the tour service, additional landscaping requirements, tour vehicles must be parked in the rear of the building, and proof of employment needed to live in the residential apartment. The City Planner provided statistics on the number of properties that could benefit from the proposed amendments. All due public notice had been met and staff recommended approval. Board members asked a few follow-up questions regarding the living/work conditions.

Devon and Danielle Eskra, property owners of 2120 S. Atlantic Avenue, spoke regarding how the potential amendments would benefit their new business. They wish to open a restaurant but it seems there may be a delay with the contractor. They hope to get the tour service open

first and the restaurant will follow 8-9 months later. They are willing to provide a monthly update as commission requests. Both Community Services Director Stewart Cruz and Board Attorney Waters reminded the board that they could recommend approval with a condition on the restaurant opening at a later time. It was also mentioned to keep the motion generic and not specify any one property or business.

MEMBER JAMES LILLY moved, seconded by MEMBER CHUCK HORION to recommend approval to the City Commission of Ordinance 2023-03 with the condition that the restaurant is operating within nine months.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 0).

Yes: Member Rick DeLange, Member Chuck Horion, Member James Lilly, Member Guy Desai

4. ACTION ITEMS

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

The meeting ended at 8:59 am.

Cheri Schwab, Recording Secretary

Rick DeLange, Chairman

MINUTES
CITY COMMISSION MEETING
April 11, 2023
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Commissioner Richard Bryan, Commissioner Mel Lindauer, Vice Mayor Michael Politis, Commissioner Chris Conomos

Staff: City Manager Kurt Swartzlander, City Clerk Cheri Schwab, City Attorney Becky Vose, Community Services Director Stewart Cruz, Finance Director Lory Irwin, Economic Development and Public Affairs Director Nancy Maddox, and Public Safety Director Michael Fowler.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Presentation by James Moore Audit firm

James Halleran, partner with James Moore Audit firm, presented the city's annual financial report to the commission. He stated that there were no material weaknesses in internal control over financial reporting and no instance of non-compliance. The city's finances were in a very good position.

6. APPROVAL OF MINUTES

A. City Commission Minutes March 28, 2023

COMMISSIONER MEL LINDAUER moved, seconded by COMMISSIONER CHRIS CONOMOS to Approve the City Commission of Minutes March 28, 2023.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

7. CONSENT AGENDA:

- A. Acceptance of AdventHealth Centra Care Exposure Hotline Contract
- B. Access Agreement & Construction License For Seawall Construction: Bella Vista Condominium, 2515 S. Atlantic Avenue
- C. Access Agreement & Construction License For Seawall Construction: Palma Bella Condominium, 3245 S. Atlantic Avenue
- D. Access Agreement & Construction License For Seawall Construction: St. Croix Condominium, 3145 S. Atlantic Avenue
- E. Access Agreement & Construction License For Seawall Construction: St. Kitts Condominium, 2853 S. Atlantic Avenue

COMMISSIONER MEL LINDAUER moved, seconded by VICE MAYOR MICHAEL POLITIS to Approve the consent agenda.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

8. REPORTS OF THE CITY ATTORNEY:

The City Attorney had nothing to report for the agenda.

9. REPORTS OF THE CITY MANAGER:

City Manager Kurt Swartzlander provided an update on the dune walk-overs. He also gave a brief update on his recent trip to Tallahassee with Mayor Miller for legislative days.

10. OLD BUSINESS:

- A. Ordinance 2023-01: Repeal of the Supplemental Economic or Tourism Development Incentive Program (AKA The ATR Program)

City Attorney Becky Vose read the ordinance by title. There were no comments or discussion on the item.

COMMISSIONER RICHARD BRYAN moved, seconded by COMMISSIONER MEL LINDAUER to Adopt Ordinance 2023-01 on second reading.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

11. NEW BUSINESS:

A. Ordinance 2023-02: Floodplain Management Regulations Update

City Attorney Becky Vose read the ordinance by title. Community Services Director Stewart Cruz explained the proposed ordinance would implement administrative changes needed for the city to maintain its Federal National Flood Insurance Program community rating system status class 5. This classification allows property owners a 25% discount. The proposed changes were drafted by the Florida Department of Emergency Management Office of Flood Management.

COMMISSIONER RICHARD BRYAN moved, seconded by COMMISSIONER MEL LINDAUER to Approve Ordinance 2023-02 on first reading..

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

B. Joyride Golf Cart Tours Establishment Land Use Proposal: 2120 S. Atlantic Avenue

City Planner Noel Eaton gave a brief presentation on the proposed business. The location is 2120 S. Atlantic Avenue (GC-RD). Mayor Miller inquired if they owned the property and Mr. Eskra replied that they currently have the property under contract. It is the old car wash/Baskin Robbins ice cream location. Devon and Danielle Eskra wish to open a small restaurant in the front of the building and use the rear bays to house golf carts in the back. They would operate a golf cart tour business around the Daytona Beach and Daytona Beach Shores area. This business type is currently not permitted in the district. They would also like to utilize the live/work component for the small upstairs unit. The current code states that the owner must live on the property. The Eskra's would like their manager to live onsite. The live/work component residential area requires a minimum floor area of 800 square feet. The upstairs unit is only 704 square feet. Staff would like direction from the commission in regards to the zoning designation and the live/work requirements. The potential property owners, the Eskra's, also gave a quick presentation of their Joyride experience to the commission. They plan to update all the exterior code violations, install fresh landscaping, and provide outdoor tables with umbrellas. The restaurant would be a lunch and dinner concept. Commissioner Lindauer had a concern with the business manager living onsite instead of the property owner. After a brief discussion, it was decided that an employee contract could be submitted to the city to allow an employee to live onsite. The commission gave staff a consensus to bring back a document to address the code variations.

12. COUNCIL COMMENTS:

Vice Mayor Politis inquired if a representative from Chase Bank could give a presentation regarding the city's investments. Commissioner Bryan felt his recent seawall informational meeting went very well. He had two important take aways from the meeting. First, it is very important to have temporary armoring in place, and second, save money by working with your neighbors to create a contiguous seawall.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

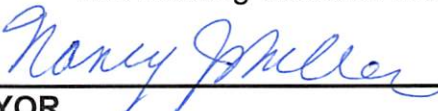
Debra Taylor informed the commission that her condo was having a struggle with getting their seawall permitted. The information that their engineer sent had been declined regarding the height of the seawall. She was advised to have the engineer re-submit information ASAP. Emma Clark from the Port Orange- South Daytona Chamber of Commerce introduced herself.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

There were no additional items added to the next agenda.

15. ADJOURNMENT:

The meeting ended at 7:13 pm.



MAYOR
NANCY MILLER

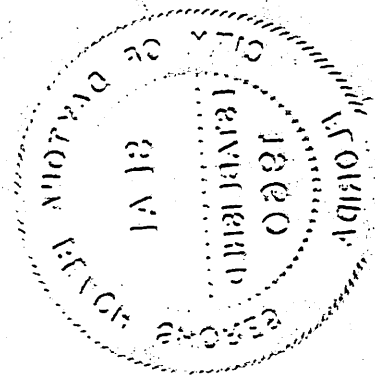


CITY MANAGER
KURT D. SWARTZLANDER

ATTEST:



CITY CLERK, CHERI SCHWAB



Zoning Map

City of Daytona Beach Shores, FL

 Daytona Beach Shores

1925

Address Numbers

R-9

County Zoning

Zoning Category

RSF-1

RSF-2

Zoning Category

RMF-1

RMF-2

RMF-3

T-RMF-1

MXD

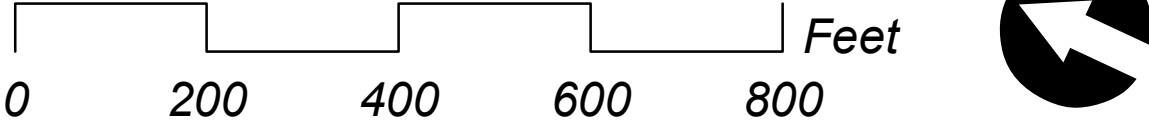
PUD

GC-1

GC-2

GC-RD

P



CERTIFICATE OF AUTHENTICITY

This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted on April 22, 1987 as part of Ordinance No. 87-21 of Daytona Beach Shores, Florida.

By: _____
Mayor

Attest: _____
City Manager

[City Seal]

Zoning Map

City of Daytona Beach Shores, FL

 Daytona Beach Shores

1925

Address Numbers

R-9

County Zoning

RSF-1

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RMF-1

RMF-2

RMF-3

T-RMF-1

MXD

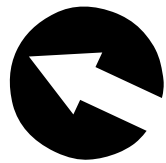
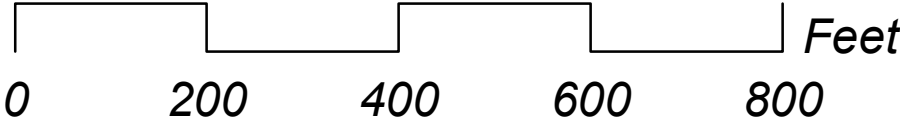
PUD

GC-1

GC-2

GC-RD

P



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Mayor

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City Manager

[City Seal]

Zoning Map

City of Daytona Beach Shores, FL

Daytona Beach Shores

1925

Address Numbers

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Zoning Category

RSF-1

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RMF-2

RMF-3

T-RMF-1

MXD

PUD

GC-1

GC-2

GC-RD

P

0

200

400

600

800

Feet

The map displays a coastal area with various zoning districts. Key streets include SR A1A, S ATLANTIC AVE, RIDGE RD, OCEANS WEST BLVD, BELLEMEAD DR, LIBERTY ST, CRESCENT, VAN AVE, ESPERANZA AVE, S PENINSULA DR, RIVER POINT DR, GLADYS TER, THAMES AVE, DACH AVE, and S PENINSULA DR. The map is color-coded according to the zoning legend: RSF-1 (light yellow), RSF-2 (yellow), RMF-1 (orange with diagonal lines), RMF-2 (orange), RMF-3 (brown), T-RMF-1 (tan), MXD (purple), PUD (blue), GC-1 (red with diagonal lines), GC-2 (red), GC-RD (red with cross-hatch), and P (green). The map also shows address numbers and county zoning (R-9).

CERTIFICATE OF AUTHENTICITY

This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted on April 22, 1987 as part of Ordinance No. 87-21 of Daytona Beach Shores, Florida.

By: _____
Mayor

Attest: _____
City Manager

[City Seal]

Prepared by the Volusia County Metropolitan Planning Organization for the City of Daytona Beach Shores, November 6, 2003. Revised August 30, 2005, June 19, 2008, July 8, 2008, March 11, 2009, January 15, 2010 and March 2, 2010.

Page 151 of 247

Zoning Map

City of Daytona Beach Shores, FL

Daytona Beach Shores

1925

Address Numbers

R-9

County Zoning

Zoning Category

RSF-1

RSF-2

RMF-1

RMF-2

RMF-3

T-RMF-1

MXD

PUD

GC-1

GC-2

GC-RD

P

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Page 152 of 247

Zoning Map

City of Daytona Beach Shores, FL

Daytona Beach Shores

1925

Address Numbers

R-9

County Zoning

Zoning Category

RSF-1

RSF-2

RMF-1

RMF-2

RMF-3

T-RMF-1

MXD

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GC-2

GC-RD

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Page 153 of 247

PROOF OF PUBLICATION

Cheri Schwab
City Of Daytona Beach Shores - Legal
2990 S Atlantic AVE
Daytona Beach FL 32118-6002

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who, on oath says that he/she is LEGAL COORDINATOR of The News-Journal, a daily and Sunday newspaper, published at Daytona Beach in Volusia and Flagler Counties, Florida; that the attached copy of advertisement, being a Govt Public Notices in the Circuit Court, was published in said newspaper in the issues dated or by publication on the newspaper's website, if authorized, on:

04/28/2023

Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Subscribed and sworn to before on 04/28/2023

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$375.64

Order No: 8748475

Customer No: 465027

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

City of Daytona Beach Shores
NOTICE OF PUBLIC HEARING
The City of Daytona Beach Shores, Florida, will hold Public Hearings to consider the following proposed ordinance:

ORDINANCE 2023-03
AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO THE CREATION OF A TOUR SERVICE CONDITIONAL USE; AMENDING THE MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE; AMENDING APPENDIX "G" CHAPTER 2 ENTITLED "DEFINITIONS" BY AMENDING SECTION 2-2 ENTITLED "GENERAL DEFINITIONS" BY CREATING ASSOCIATED DEFINITIONS FOR A TOUR SERVICE CONDITIONAL USE; AMENDING CHAPTER 14 ENTITLED "ZONING REGULATIONS" BY AMENDING SECTION 14-98 ENTITLED "SPECIAL EXCEPTIONS AND CONDITIONAL USES" TO ESTABLISH THE USE AND ASSOCIATED CONDITIONS OF A TOUR SERVICE CONDITIONAL USE IN THE GC-RD (GENERAL COMMERCIAL-REDEVELOPMENT DISTRICT) AND TO AMEND THE GENERAL AND FACILITY REQUIREMENTS OF A LIVE/WORK FACILITY CONDITIONAL USE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The public hearings will be held in the City Commission Chambers in the Community Center located at 3000 Belmead Drive, Daytona Beach Shores, Florida as follows:

Planning and Zoning Board: May 8, 2023 at 8:30 am

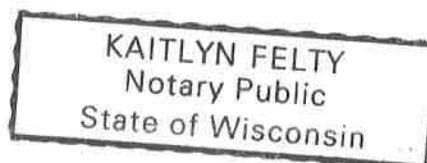
City Council (1st Reading): May 23, 2023 at 6:00pm

City Council (2nd Reading): June 6, 2023 at 6:00pm

All interested parties are invited to appear at this public hearing and submit oral or written objections or comments with respect to the proposed ordinance. The proposed ordinance is available for public inspection at the City of Daytona Beach Shores, Community Services Department, Building & Codes Division, 2990 South Atlantic Avenue, Daytona Beach Shores, Florida.

Anyone who wishes to appeal any decision by the City will need a record of Public Hearing proceedings, including all testimony and evidence, and should arrange in advance for the making of a verbatim transcript of the Public Hearing. The Public Hearing may be continued to one or more dates. The dates, times and places of any continuation of the Public Hearing will be announced at the Public Hearing and no further notice regarding said continuation is required to be published. In accordance with the Americans with Disabilities Act (ADA), persons needing special accommodations to participate in the proceedings should contact the City Clerk's Office no later than seven days prior to the hearing.

LH1748475 4/28/2023 11





CITY COMMISSION AGENDA MEMORANDUM MAY 23, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Noel Eaton, Planner

PREPARED BY: Noel Eaton, Planner

SUBJECT: Non-conforming Sign Removal Incentive Grant Application 12023014: 3060 S. Atlantic Avenue - Christina's Plaza

SYNOPSIS:

The City received the subject Nonconforming Sign Removal Incentive Grant Application on December 15, 2022 from Lambros Papalambros Trust, owner of the property located at 3060 S. Atlantic Avenue known as Christina's Plaza, which houses the Chamber of Commerce Annex, Oceanside Dry Cleaners, Alluring Hair Designs and Noble Crumb Bakery. The sign grant, if approved, would be used to assist the property owner with the costs associated with replacing the nonconforming sign with the new conforming monument sign. The total cost of the sign is \$9,249.86. Therefore, the applicant would qualify for \$2,000 in grant reimbursement.

Planning staff recently realized this application was submitted within the deadline approved by the Commission. The conforming monument sign was granted an administrative variance in conformance with Sec. 6-10 and Sec. 14-63 of the Land Development Code for a setback and landscaping waiver based on existing site conditions. The monument sign has been permitted, installed and passed final inspections.

Staff asks the City Commission to consider this application with the understanding that it was submitted before the deadline and substantially meets the grant criteria (excluding construction before award of grant monies). The applicant was advised his application would be heard at the January 10th City Commission meeting (see email attached) and staff missed the application and did not present it to the Commission at that time and is requesting it be considered on this agenda.

\$16,807 remains in the sign grant budget for this fiscal year.

FISCAL IMPACT STATEMENT:

The city budgeted \$50,000 for sign grants in fiscal year 2022-23, 15 grants have been approved for a total of \$33,193. If the above grant is approved, the remaining funds will be \$14,807.

BACKGROUND:

In conducting an analysis of the application relative to the grant program eligibility requirements and other program parameters, staff has determined that the application qualifies and meets most of the grant requirements. The only criteria not met is Criterion 8, which states no prior sign work/cost shall be eligible for grant funding. As mentioned above, the applicant was advised his application would be heard at the January 10th meeting and it was not. The sign has been permitted, constructed and passed final inspection in conformance with the LDC.

Two sign quotes were provided and the applicant's preferred sign vendor, Townsend signs, provided a quote of \$9,249.86. Al's Signs provided a quote of \$8,525.33. The applicant would qualify for a grant of \$2,000 as the minimum amount that can be allocated is \$2,000.

No code enforcement violations exist on the property.

A copy of the grant application with rendering of the monument sign, proof of ontime submittal, proof of final payment and passed inspection report can be seen in Exhibit A. Exhibit B provides a location map and street view of the old nonconforming sign, while Exhibit C provides an evaluation of the application compared to the grant eligibility requirements and program parameters.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of the non-conforming sign removal incentive grant as presented.

SUGGESTED MOTION:

A City Commissioner may move as follows:

"I move to approve the Non-Conforming Sign Removal Incentive Grant application for 3060 S. Atlantic Avenue, Lambros Papalambros Trust, property owner of Christina's Plaza in the amount of \$2,000."

- ATTACHMENT:**
1. Exhibit A-Application, Rendering and Proof of Submittal, Payment and Inspection
 2. Exhibit B- Location Map & Street View - 3060 S. Atlantic Avenue
 3. Exhibit C-Evaluation-3060 S. Atlantic Avenue



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

414068

Date Received: _____

Time Received: _____

Application Complete: Y/N

12023014
City of Daytona Beach Shores

Non-Conforming Sign Removal Incentive Grant Application

NOTE: Grant application submission deadline is November 12, 2022

RECEIVED

DEC 15 2022

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

A. Property Information

Property Address: 3060 S Atlantic Ave, Daytona Beach Shores, FL 32118 Parcel No: 53340210003

Existing Property Use/Business: Retail

Property Owner's Name: Lambros Papalambros Trust

Property Owner's Address: 45 John Anderson Drive Ormond Beach, FL 32176

Owner's Telephone No: 386-672-1772 Owner's Fax No: _____

B. Applicant Information (if not owner)

Applicant's Name: _____

Address: _____

Telephone No: _____ Fax No: _____

*Applicant is: ☐ Contract Purchaser ☒ Property Owner/Developer ☐ Tenant/ Agent for Owner

*If applicant is other than Property Owner, authorization affidavit (Sec. E) must be provided with application.

C. Proposed Signage

At least two (2) quotes shall be provided from two (2) different sign vendors. Quotes shall at a minimum provide textual description and/or graphic representation of the following:

1. Sign Height: ☐; Sign Width: ☐; Sign Face Area: ☐; Illumination: ☐; Materials: ☐; Colors: ☐; Address: ☐; Style: ☐; Reader Board (indicate whether manual or electronic): ☐
2. Site Plan indicating location of proposed landscaping, existing and proposed signs, including setbacks and line of sight: ☐
3. Description of proposed landscaping: ☐
4. Written letter indicating consistency with Chapter Six (6) of the City's LDC: ☐
5. Name, address and contact information of each sign vendor: ☐

6. Picture and dimensional specifications of existing sign: ☐
7. Pictures and location addresses of signs similar in material and design (if available): ☐
8. Material samples of decorative base and cabinet (if available): ☐

D. Budget

Cost of design/engineering	\$ _____
Cost of alteration, manufacture and installation of sign	\$ _____
TOTAL SIGNAGE COST	\$ _____
AMOUNT REQUESTED FROM SIGN GRANT PROGRAM	\$ _____

BY SIGNING BELOW, I HEREBY CERTIFY THAT THIS IS AN APPLICATION FOR NEW OR ALTERED SIGNAGE. THE PROPOSED SIGN HAS NOT BEEN ALTERED, ERECTED OR FABRICATED IN WHOLE OR IN PART. WORK ON THE SIGN WILL NOT COMMENCE PRIOR TO RECEIPT OF WRITTEN APPROVAL FROM THE CITY OF DAYTONA BEACH SHORES. I UNDERSTAND THAT ALTERATION, FABRICATION OR INSTALLATION OF THE SIGN PRIOR TO SUCH APPROVAL IS GROUNDS FOR DENIAL OF MY SIGN GRANT APPLICATION BY THE CITY.

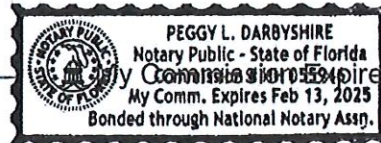
By signing below, I further certify that all information contained in this application and all documentation submitted herewith is true and correct to the best of (my) (our) knowledge and belief. I acknowledge that I fully understand the requirements relating to the specific Non Conforming Sign Removal Grant that I am applying for and that I fully understand and agree to the process for the application and disbursements of grant funds, as outlined in the Non Conforming Sign Removal Grant Program. Moreover, I acknowledge and agree that the conditions imposed by the City Council shall apply to my permit, if approved, and that the city may impose further conditions pursuant to the City's Code of Ordinances.

OWNER's SIGNATURE *Panoreo Papalambros*

STATE OF *FL* COUNTY OF *Volusia*

Sworn to and subscribed before me this *5th* day of *Dec.* 20 *22*, by *Panoreo Papalambros* who is personally known to me or has produced _____ and who did (did not) take an oath.

Peggy L. Darbyshire



Feb. 13th 2025

APPLICANT's SIGNATURE (if applicant not owner) _____

STATE OF _____ COUNTY OF _____

Sworn to and subscribed before me this _____ day of _____ 20 _____, by _____ who is personally known to me or has produced _____ and who did (did not) take an oath.

Notary Public _____ My Commission Expires: _____

E. Notice and Affirmation of Permit Requirements

By signing below, I hereby acknowledge that the grant application process and approval is only for the disbursement of grant funds and does not constitute a sign permit. By signing below, I further acknowledge that a sign permit is required from the Daytona Beach Shores Building Department and that the approval of a sign grant does not relieve applicant, owner or project from the City's Land Development Code sign regulations or the Florida Building Code.

Signature: X Parroia Papalambros ☒ Owner ☐ Applicant

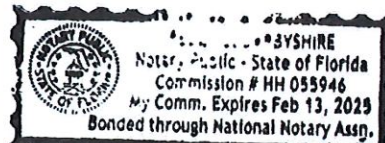
Date: Dec 5th 2022

STATE OF Fla COUNTY OF Volusia

Sworn to and subscribed before me this 5th day of Dec 20 22, by Parroia Papalambros who is personally known to me or has produced _____ and who did (did not) take an oath.

Peggy L. Darbyshire
Notary Public

My Commission Expires: Feb 13, 2025



F. Affidavit of Authorization (if applicant not owner)

I, _____, owner of the property described herein, hereby authorize _____, and its agents, to make application for _____ to the City of Daytona Beach Shores for the property described in this application.

PROPERTY OWNER's Signature: _____

Date: _____

STATE OF _____ COUNTY OF _____

Sworn to and subscribed before me this _____ day of _____ 20 _____, by _____ who is personally known to me or has produced _____ and who did (did not) take an oath.

Notary Public

My Commission Expires: _____

G. Checklist

1. Signed Application: ☐
2. Sec. C, proposed sign specs, site plan and illustration, etc: ☐
3. Sec. D, two (2) written cost estimates (budget) for work (on vendor letterhead): ☐

4. Sec. E, signed authorization affidavit (if applicable): ☐
5. Sec. F, signed authorization affidavit (if applicable): ☐
6. Is the property subject to any code enforcement action and/or delinquent on any accounts payable to the City? Yes ☐ No ☐

PROPOSAL



FLORIDA STATE CERTIFIED LICENSE ES12000177 UNDERWRITERS LABORATORIES LISTED E124461

December 2, 2022

Christina's Plaza
3060 S Atlantic Ave
Daytona Beach Shores, Florida

414068
RECEIVED

DEC 15 2022

**BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES**

Replace pylon sign damaged in windstorm with new monument sign to meet sign code regulations. Fabricate and install the following:

50 sq ft pylon sign per approved design. All aluminum sign cabinet and pylon base. All surfaces primed and painted with acrylic enamels. Sign mounted to 6" steel pole in concrete base per engineer design. Faces of 1/8" aluminum with dimensional die cut graphics and 3M vinyl overlays. Sign to meet current building codes and wind load requirements. Includes removal and disposal of existing damaged sign. Provide engineering, permitting, and installation.

Terms: 50% down payment with balance due upon completion.

Cost of sign	\$6244.00
Sales tax	\$405.86
Eng/permitting	\$800.00
Remove/Install	\$1800.00
Total cost	\$9249.86

Customer Approval _____ Date _____

Townsend Signs _____ Date _____



228 Carswell Ave.
Holly Hill, FL 32117

Estimate

Date	Estimate #
11/30/2022	4670

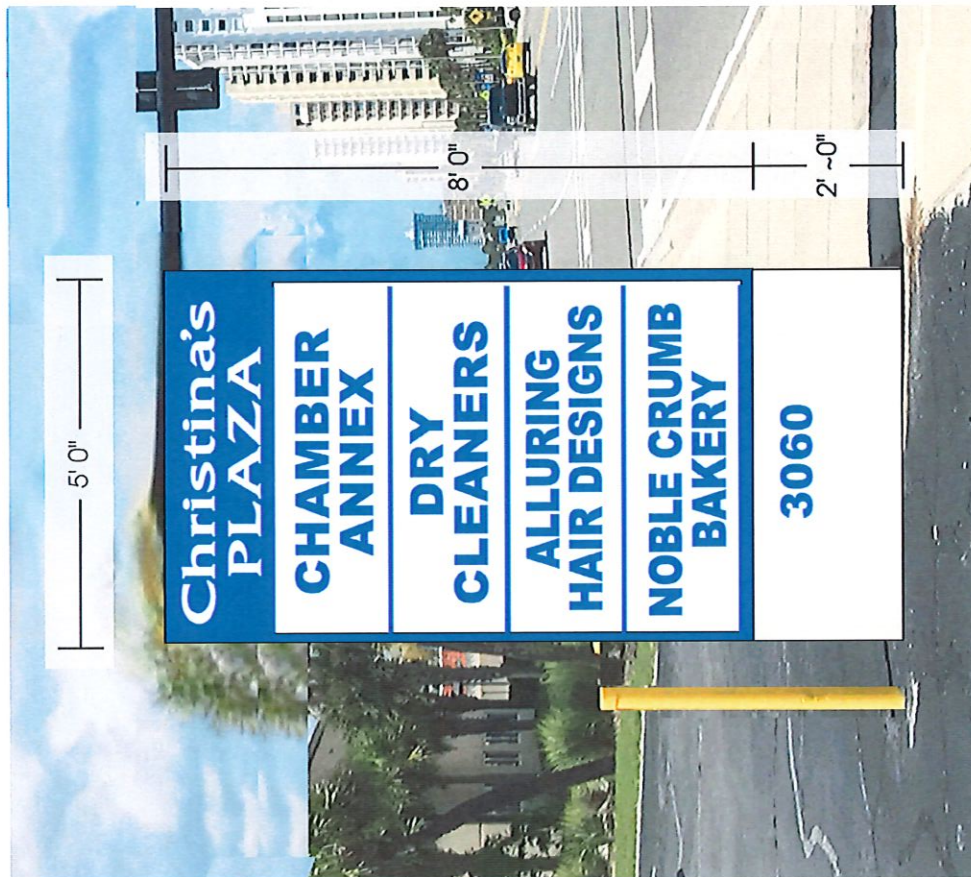
Bill To	Ship To
Christina's Pizza 3060 S. Atlantic Ave. Daytona Beach, FL 32118	RECEIVED DEC 15 2022 4 14 06 PM BUILDING AND CODES DIVISION CITY OF DAYTONA BEACH SHORES

P.O. Number	Terms		Rep	F.O.B.	Project
Quantity	Item Code	Description	Price Each		Amount
1	Monument	Aluminum Monument Sign with 3mm Aluminum Composite Faces and Cut High Performance Vinyl Graphics TBD (6" Steel Pylon with Concrete Base)*	7,200.00		7,200.00T
1	Permit	Acquire permit (must meet municipal Codes)	320.00		320.00T
1	Engnrdrw	Stamped Engineer Drawings Required - will meet code and wind requirements	485.00		485.00T
		* includes installation			

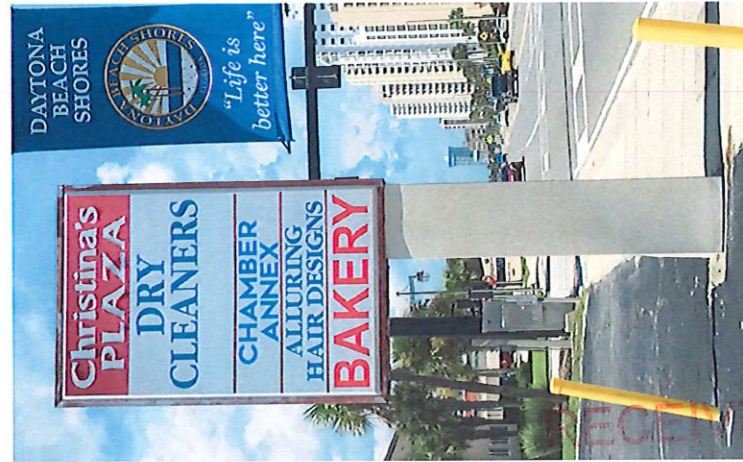
Phone: 386-252-8108
Fax: 386-255-0622
Email: AISigns@msn.com

Subtotal	\$8,005.00
Sales Tax (6.5%)	\$520.33
Total	\$8,525.33

All jobs require 50% Deposit before proceeding.
This is an estimate only, Changes and variations will impact the Total.
Charges for creating or converting artwork to be used is determined by time and effort necessary.



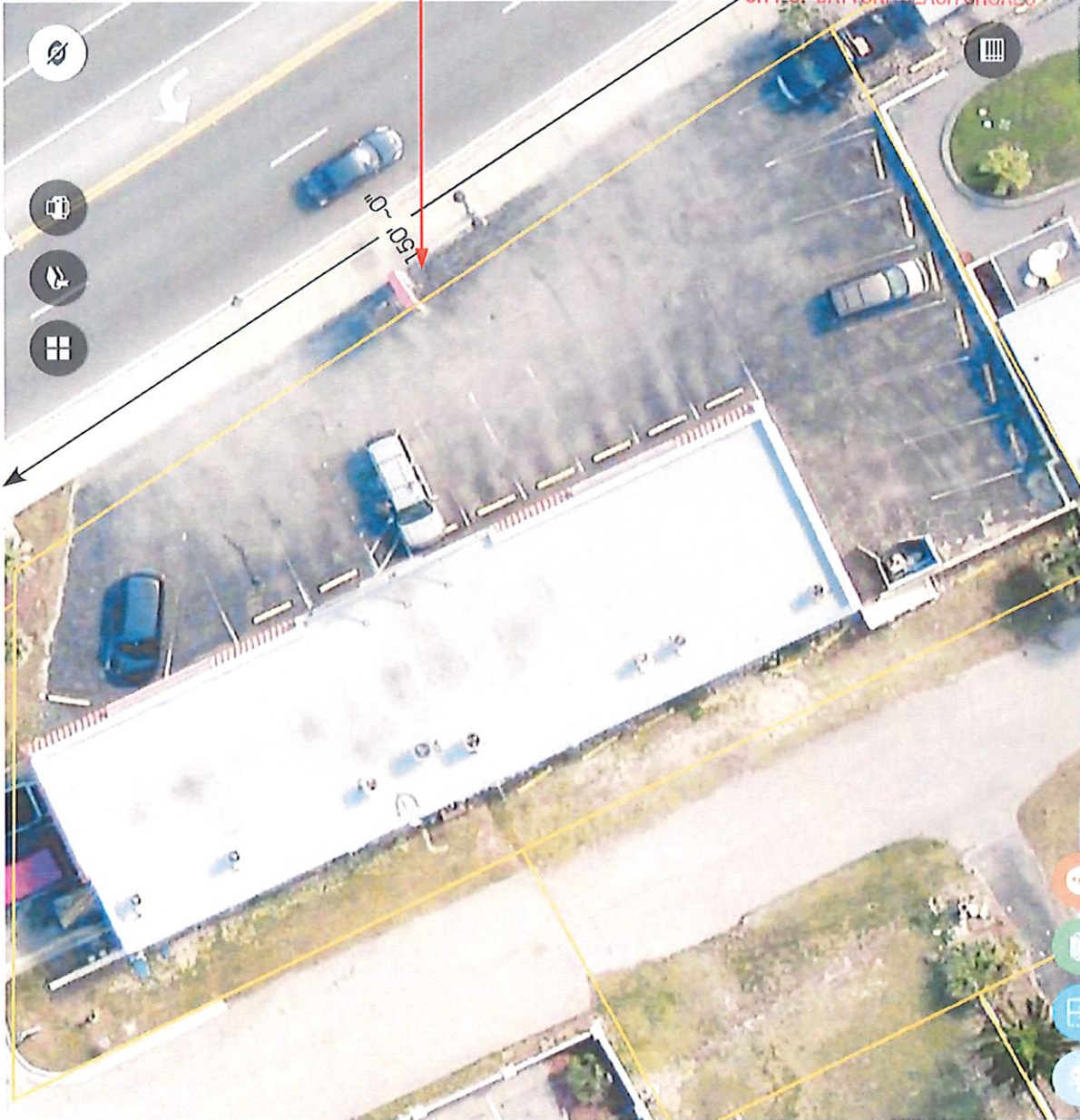
PROPOSED 40 SF MONUMENT SIGN @ 10' HEIGHT



EXISTING 60 SF SIGN @ 20' HEIGHT - NTS

DEC 15 2022
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES
414068

Project Name - Contact CHRISTINAS PLAZA 3060 S ATLANTIC AVE DAYTONA BEACH SHORES, FL	CHANGE EXISTING POLE SIGN TO MONUMENT SIGN. USE EXISTING STEEL MOUNTING POLE AND CONCRETE BASE. FABRICATE NEW NON ILLUMINATED SIGN. BASE TO MATCH BUILDING.
IS TOWNSEND SIGNS THE SIGN OF QUALITY 515 LPGA Blvd. Holly Hill, Florida 32117 386-255-1955 info@signsbytownsend.com Florida State License ES12000177	



414068
RECEIVED

DEC 15 2022

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

PROPOSED 40 SF MONUMENT SIGN @ 10' HEIGHT

TOWNSEND SIGNS
THE SIGN OF QUALITY
515 LPGA Blvd. Holly Hill, Florida 32117
386-255-1955
info@signsbytowndesign.com
Florida State License ES12000177

CHANGE EXISTING POLE SIGN TO MONUMENT SIGN. USE EXISTING STEEL MOUNTING POLE AND CONCRETE BASE. FABRICATE NEW NON ILLUMINATED SIGN. BASE TO MATCH BUILDING.

Project Name - Contact
CHRISTINAS PLAZA
3060 S ATLANTIC AVE
DAYTONA BEACH SHORES, FL

NOTARIZED AUTHORIZATION OF OWNER

I, Panorea Papalambros, the owner of the property at 3060 S Atlantic Ave, Daytona beach Shores, Christina's Plaza, hereby authorize Alan Townsend and Townsend Signs Inc to act on my behalf to seek a variance to the sign ordinance to install a monument sign due to existing limiting conditions of the property referenced above.

Panorea Papalambros
Owner's Signature

RECEIVED

DEC 15 2022

BUILDING AND CODES DEPARTMENT
CITY OF DAYTONA BEACH SHORES

STATE OF FLORIDA COUNTY OF VOLUSIA

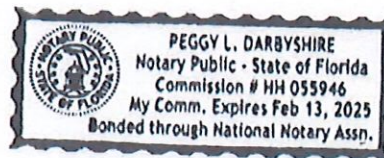
The foregoing instrument was acknowledged before me this 21ST day of Sept., 2022

by Panorea Papalambros, who is personally known to me or has provided
Personally known as proof of identification.

Peggy L. Darbyshire
NOTARY PUBLIC - STATE OF FLORIDA

Peggy L. Darbyshire
NAME OF NOTARY - TYPED OR PRINTED

COMMISSION # HH 055946



Noel Eaton

From: midwayfuncenter@aol.com
Sent: Thursday, December 15, 2022 3:47 PM
To: Noel Eaton; Edmunds, Steve; Cruz, Stewart
Subject: Re: grant application for Christina's Plaza 3060 S Atlantic

Thank you

-----Original Message-----

From: Noel Eaton <neaton@cityofdbbs.org>
To: midwayfuncenter@aol.com <midwayfuncenter@aol.com>; Edmunds, Steve <SEdmunds@cityofdbbs.org>; Cruz, Stewart <SCruz@cityofdbbs.org>
Sent: Thu, Dec 15, 2022 3:38 pm
Subject: RE: grant application for Christina's Plaza 3060 S Atlantic

Thank you for sending this. I will have our permit technicians enter it into the system.

This grant will be presented to the City Commission at the January 10th meeting.

Please let me know if you have any questions.

Thank you kindly,

Noel Eaton | City Planner
City of Daytona Beach Shores

2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Tel. 386-763-5376
Website: www.dbshores.org



"Life is Better Here"

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the City of Daytona Beach Shores officials and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure. The views expressed in this message may not necessarily reflect those of the City of Daytona Beach Shores. If you received this message in error, please notify us immediately by replying to this message, and please delete it from your computer. Thank you.

From: midwayfuncenter@aol.com <midwayfuncenter@aol.com>
Sent: Thursday, December 15, 2022 3:30 PM
To: Edmunds, Steve <SEdmunds@cityofdbbs.org>; Cruz, Stewart <SCruz@cityofdbbs.org>; Noel Eaton <neaton@cityofdbbs.org>
Subject: Fwd: grant application for Christina's Plaza 3060 S Atlantic

Please see attached grant application. The estimate from AI's signs does not include the removal of the old sign. Please let me know if you need anything else. Thanks

Christina and Dino Paspalakis

-----Original Message-----

From: midwayfuncenter@aol.com

To: sedmunds@cityofdb.org <sedmunds@cityofdb.org>; scrutz@cityofdb.org <scrutz@cityofdb.org>

Cc: xtinap@aol.com <xtinap@aol.com>; bammer1@earthlink.net <bammer1@earthlink.net>

Sent: Sat, Dec 10, 2022 2:40 pm

Subject: grant application for Christina's Plaza 3060 S Atlantic

Please see attached grant application. We are in the process of bidding it out to another party. If there is any questions, please feel free to call me at 386-334-2102

Thanks, Dino and Christina Paspalakis

-----Original Message-----

From: info@signsbytownsend.com

To: sedmunds@cityofdb.org

Cc: Dino Paspalakis <midwayfuncenter@aol.com>

Sent: Thu, Sep 22, 2022 3:00 pm

Subject: Variance request

Steve,

Christina's Plaza 3060 S Atlantic Ave Daytona Beach Shores

We are asking for an administrative variance to replace the existing pole sign with a new monument sign at zero setback and without landscaping due to the restrictive conditions present on the existing property.

Attached variance request, owner's letter of authorization, sign plan showing existing and proposed signs and a site plan showing sign location. To comply with the sign code we are proposing to replace the existing pole sign with a monument sign at the same location. We will be using the existing support pole and concrete base from the existing sign to install the new sign on. The existing traffic bollard will be straightened and reinforced to prevent vehicles from hitting the sign.

Thanks for your consideration.

Alan Townsend

**TS TOWNSEND
SIGNS**
515 LPGA BLVD.
HOLLY HILL, FLORIDA 32117

SERVICE INVOICE

INVOICE NO.	15730
DATE	3/21/2023

PAID
03/24/2023

BILL TO	SHIP TO
Lambrose Paplambrose 45 John Anderson Dr Ormond Beach Fl 32174	Christina's Plaza 3060 S. Atlantic Ave Daytona Beach Shores, Fl 32118

CONTACT	COMPLETED	3/21/2023
Dino	TERMS - DUE UPON RECIEPT	

ITEM	DESCRIPTION	QTY	COST	AMOUNT
Job Description	Fabricate and install 50sf monument sign per approved design and specifications.		0.00	0.00
Cost of Sign	Cost of Sign		6,244.00	6,244.00T
Eng./Permitting Fees	Eng./ Permit Fee		800.00	800.00
Installation	Installation		1,800.00	1,800.00
	Sales Tax		6.50%	405.86

Payment due upon receipt of invoice. A finance charge of 1.5% per month will be added to all accounts 30 days past due. Townsend Signs Inc. retains title to, and shall have the right to repossess all materials covered by this invoice until this invoice has been paid in full.

Amount Due \$9,249.86

LAMBROS PAPALAMBROS
PANOREA PAPALAMBROS
CHRISTINA PAPALAMBROS
45 JOHN ANDERSON DR
ORMOND BEACH, FL 32176-5775

1711

63-515/670
120

3-20-23
Date

CHECK ASSURE
FOR PROTECTION

Pay to the
Order of

Townsend Signs

\$9,249.86

Nine thousand two hundred forty nine and 86/100 dollars

Phantom
Safe
Deposit®
Details on back



SeacoastBank
SEACOAST NATIONAL BANK
ORMOND BEACH, FLORIDA 32174

For Christina's Plaza sign ^{EXP.}

Christina Papalambros

⑆067005158⑆

~~XXXXXXXXXXXXXXXXXXXX~~



Permit #: 20230156

Permit Date: 03/08/23

Permit Type:

Permit Type: Sign Permit

Site Name: Christina's Plaza

Site Address: 3060 S. Atlantic Ave.

Status: (5a) Closed, Final Inspection Approved

Job Description: Install monument sign

Job Cost: 2380

Expiration Date: 09/08/2023

Zoning:

Receipt Number: 0

Annual Fire Inspection:

Assigned To: Cheryl Thibault

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
5334-02-10-0030	3060 S ATLANTIC AV		PAPALAMBROS LAMBROS TR	386-334-2102	

Contractors

Contractor	Primary Contact	Phone	Address	Contractor Type	License	License #
Townsend Signs, Inc	Alan Townsend	386-255-1955	515 LPGA Blvd.	Sign w/ Electrical	Alan Townsend	ES12000177

Inspections

Date	Inspection Type	Description	Scheduled Date	Completed Date	Inspector	Status
04/21/2023	(~SG) FINAL	As submitted 9:00 - 9:15	04/21/2023	04/21/2023	Matt Thomas	Approved Final - Permit Closed
03/27/2023	(~SG) FINAL	Address required on street side of sign 3:30 - 3:45	03/27/2023	03/27/2023	Matt Thomas	Inspection Failed

Fees

Fee	Description	Notes	Amount
(SG1) Sign Permit Base Fee			\$11.00
(SG2) Sign Permit Minimum Fee (In Lieu of SG6-SG9)			\$27.50
(SG3) Sign Permit Training Surcharge			\$5.00
(SG5) Sign Permit Florida DCA & DBPR Surcharge			\$4.00
(SG4) Sign Plans Exam Fee			\$21.75

Attached Letters

Date	Letter	Description
04/20/2023	<u>Inspection Report</u>	
03/24/2023	<u>Inspection Report</u>	
02/06/2023	<u>Permit</u>	

Payments

Date	Paid By	Description	Payment Type	Accepted By	Amount
03/08/2023	Townsend Signs Inc		#1284	Cheryl Thibault	\$69.25
Outstanding Balance					\$0.00

Notes

Date	Note	Created By:
01/23/2023	Received revised application with owner's and license holder's signatures.	Muriel Lamb
01/19/2023	Hold for license holder's and owner's signatures.	Cheryl Thibault

Exhibit B
Location Map- 3060 S. Atlantic Avenue- Christina's Plaza



Source: Volusia County Property Appraiser Website (2022)

Street View- 3060 S. Atlantic Avenue- Christina's Plaza



Source: Google Street View (July 2022)

EXHIBIT C

Eligibility Requirements Analysis Table: 3060 S. Atlantic Avenue-Christina's Plaza – Dino Paspalakis

ID	Eligibility Criteria	Status	Criteria Met
1	Sign shall not be abandoned	Sign is not abandoned.	Yes
2	Nonconforming freestanding pole/sign pre-existed Ord. 2012-02	Sign pre-existed Ord. 2012-02	Yes
3	Temporary sign and exempt signs do not qualify	Sign is not temporary or exempt	Yes
4	Property shall be located in a commercial/hotel district	Property is located in the GC-2 District	Yes
5	Property shall abut S. Atlantic Avenue or Dunlawton Boulevard	Property abuts S. Atlantic Avenue	Yes
6	Sign shall serve to advertise an onsite business	Sign advertises an onsite businesses (plaza)	Yes
7	There shall be an active business on site	The advertised businesses are active.	Yes
8	No prior sign work/cost shall be eligible for grant funding	The sign has been permitted, installed and passed final inspections.	No*
9	Sign design and plan shall conform to all applicable City standards	The sign conforms to all applicable City standards as constructed.	Yes
10	No delinquent accounts payable to City	There are no delinquent accounts for the property owner.	Yes
11	Properties subject to Code Enforcement action shall not qualify for this grant.	Property is not under current code enforcement action.	Yes

NOTE: Application was submitted on 12-15-2023 before the final deadline, sign has been permitted, installed and passed final inspection from the building department.

Application Summary Description Table:

ID	Parameter	Application	Parameter Met
1	Sign Grant Limit	Requested Amount	
	15% of costs w/ min of \$2,000 and max of \$3,000	\$2,000	Yes
2	Sign Work Type Permitted Alteration or Removal	Removal w. New Sign	Yes
3	Work Detail Permitted- Design/engineering, sign making, installation, and/or alteration.		Yes
4	Variance Required	Administrative Variance approved by the building official in conformance with Sec. 6-10 and Sec.14-63	



CITY COMMISSION AGENDA MEMORANDUM MAY 23, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Nancy Maddox, Recreation Director

PREPARED BY: Nancy Maddox, Recreation Director

SUBJECT: Economic Development Lease Subsidy Grant Application - Bank Heist Experience, LLC

SYNOPSIS:

The applicant, Bank Heist Experience, LLC, submitted an Economic Development Grant Application on May 3, 2023, to the Economic Development Committee requesting a new business lease subsidy grant totaling the amount of \$***** over the course of three (3) years. The applicant is planning to open his bank heist experience in June at 2416 S. Atlantic Avenue, Daytona Beach Shores and it will be an escape room for locals and visitors to experience.

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. Attached is the proposed grant agreement between the City and the applicant, the grant application and staff evaluation of the grant application.

LEGAL REVIEW:

RECOMMENDATION:

The Economic Development Committee recommends approval of the subject grant application.

SUGGESTED MOTION:

1. "I move to approve the subject grant application and agreement as presented."

OR

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. Bank Heist application
2. Bank Heist Business Plan
3. Bank Heist Experience evaluation
4. Bank Heist Experience-Lease Subsidy Grant Agreement
5. Bank Heist Economic Development Lease Subsidy

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: Michael Babic

CONTACT PERSON (if an entity):

ADDRESS: 395 Pelican Ave

CITY: Daytona Beach

STATE :FL

ZIP: 32118

TELEPHONE: 386-689-5068

FAX:

EMAIL ADDRESS: daytonabankheist@gmail.com

heist

APPLICANT BUSINESS STRUCTURE:

(Please check all that apply)

Sole proprietorship/individual

Corporation

Limited Liability Company

Other

GRANT TYPE:

BANK HEIST EXPERIENCE, LLC

(Check one only)

Lease Subsidy

New Business (Lease Subsidy)

Existing Business Lease Extension

PROJECT SITE INFORMATION:

Address: 2416 S. Atlantic Ave.

City: Daytona Beach Shores

State: FL

Zip: 32118

Tax Parcel ID:

BASE REAL PROPERTY VALUE:

Most recent City Taxable Value

\$ 284,191 Year: 2023

Maximum New Investment Value

\$ 35K 2023

Certified by a licensed Florida Engineer or Architect

\$ 60K 2021/2022

PROJECT DESCRIPTION:

5K
Violation
Suspended
Permit
ATM
Cleanup
1200.00 10/2021

Opening A unique and exciting
entertainment experience for visitors. Designed much
like an escape room, players will be solving challenges
and puzzles to attain money (prop money).

PROJECT BENEFITS TO THE CITY:

This venue will certainly attract
not only the locals, but visitors from vacationing or
travelling to the Daytona Area. The location is an ideal
redevelopment area utilizing a vacant previous bank building and
will attract new business while stimulating growth to existing
businesses. This will also create new jobs, bring visitors, boost
local economy, create opportunities and provide a
catalyst for further development.

REQUIRED PROJECT CHECKLIST:

Certification by Applicant

Application Authorization or Affidavit of Ownership

Site plan, building plans, elevations and a detailed scope of work

Business Plan

Estimate by a Licensed Engineer or Architect certifying amount of new
investment

Most recent property tax bill and truth in millage statement

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: 5-3/2023

PRINTED NAME: Michael Babic

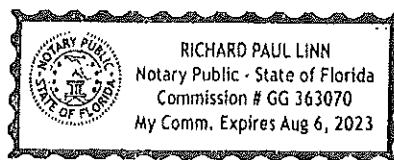
STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 3rd day of May, 2023 by Michael Babic, who is personally known to me, OR who has produced FL DL as identification and did (did not) take an oath.

My commission expires: *Aug 4th 2023*

Printed Name: *Richard Linn*
NOTARY PUBLIC



A handwritten signature in black ink, appearing to read "Richard Linn", written over the printed name.

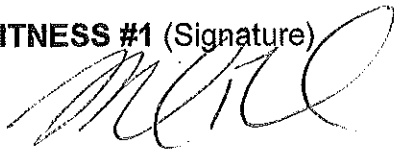
AFFIDAVIT OF OWNERSHIP*

PROPERTY ADDRESS:

TAX PARCEL ID: # 53 2204/ 401 81

Signed and sealed
in the presence of:

WITNESS #1 (Signature)



NAME PRINTED

Michael Babic

WITNESS #2 (Signature)



NAME PRINTED

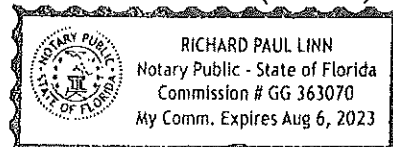
Andrew Dean

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 2nd day of May, 2023
by NHU-Y LE, who is personally known to me, OR who
has produced FL DL as identification and did (did not) take
an oath.

My commission expires: Aug 6th 2023



Printed Name: Richard Paul Linn
NOTARY PUBLIC



***NOTE: If more than one owner please provide additional affidavit of ownership for each owner.**

AUTHORIZATION TO APPLY

I, **NHU-Y LE**, am the owner of the following described property:

PROPERTY ADDRESS: **2416 S. Atlantic Ave, Daytona Beach Shores, FL 32118**

I do hereby authorize the following named individual or entity to apply for an Economic Development grant and enter into an agreement with the City of Daytona Beach Shores.

AUTHORIZED REPRESENTATIVE:
(IF APPLICABLE)

PROPERTY OWNER (1) (Print Name)
Name) **NHU-Y LE**

PROPERTY OWNER (2) (Printed

PROPERTY OWNER (1) (Signature)
(Signature)

[Signature]

PROPERTY OWNER (2)

STATE OF FLORIDA

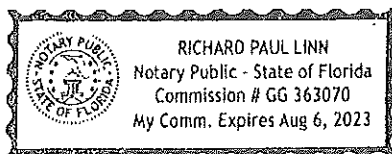
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this **3rd** day **may** of **2023** by **NHU-Y LE**, who is personally known to me, OR who has produced **FL DL** as identification and did (did not) take an oath.

My commission expires: **Aug 6th 2023**

Printed Name: **Richard Linn**
NOTARY PUBLIC

[Signature]



PROGRAM APPLICATION PROCESS

- Applicant meets with staff to discuss economic development program and potential project eligibility.
- Applicant submits a complete application for staff eligibility review.
- Staff conducts eligibility review and prepares City Council report.
- City Attorney drafts agreement for City Council consideration.
- City Council evaluates application, staff report and draft agreement and makes a final determination in approval of the grant and associated terms.

GRANT PAYMENTS ELIGIBILITY AND PROCESS

- The applicant shall provide make a request in writing and provide firm evidence to the Finance Director that all terms and conditions of the agreement approved by the City Council have been satisfied.
- Upon review of the evidence provided and legal review, the Finance Director shall provide a recommendation to the City Manager who shall determine whether the applicant has met all terms and conditions of the agreement to the satisfaction of the City.

Business Plan: Bank Heist Experience

2416 S. Atlantic Ave., Daytona Beach Shores, FL 32118

Executive Summary:

Our business plan proposes the establishment of a new Bank Heist Experience attraction in Daytona Beach Shores, FL, specifically 2416 S. Atlantic Avenue. This new attraction will be modeled after an *escape room* and will provide an exciting and interactive experience for locals and visitors.

An *escape room* is essentially a game set in an immersive environment, in this case a bank, where players attempt to solve puzzles, riddles, and clues in an effort to win or "escape" an environment. In this particular Experience, there will be a staff member playing the role of a live actor interacting as a team member and assisting the players as needed to be successful in a bank heist. Winners have the ability to actually win a cash prize if they "heist" the highest amount each quarter.

Our business will provide employment opportunities for 5-6 employees and draw traffic from many miles away to the city. As the city currently lacks entertainment options, this new attraction will offer a new form of entertainment for visitors and create a new avenue for businesses in the surrounding areas.

Business Description:

Our Bank Heist Experience is located in what was once a former banking institution in Daytona Beach Shores and will be a fully immersive experience that will challenge participants to solve a series of puzzles to in essence "heist" a bank and reap the rewards of their combined efforts. The game will be designed for groups of up to 10 players and will last for approximately 60 minutes. This new family-friendly attraction will provide a unique and engaging experience for visitors of all ages.

Market Analysis:

Currently, Daytona Beach Shores has limited options for entertainment, with the exception of a few parks, gift shops, a putt-putt golf establishment and restaurants. Our new Bank Heist Experience will provide a new avenue for entertainment in the city and will attract visitors from across the state to play this new game. Our other venue, The Daytona Escape Room Experience, which is located in South Daytona, has been operating successfully for the past seven years and has already established a strong customer base. Our business will complement

the existing escape room and offer a new type of experience for those who have already visited the other facility.

Marketing Strategy:

Our marketing strategy will focus on building brand recognition and awareness through a variety of marketing channels. We will create a website to showcase our new attraction and advertise on social media platforms such as Facebook, Instagram and TikTok. We will also establish partnerships with local hotels and resorts to offer special packages to their guests. Currently, our commercial is looping in over 40 local hotels and condos on the Beach Channel. We will additionally be offering group rates for corporate team-building events and private parties.

Financial Projections:

Our initial investment will be approximately \$60,000, which will cover the cost of interior design requirements, purchasing equipment/furniture and marketing efforts. We expect to generate revenue of approximately \$96,000 in our first year of operation and anticipate a steady growth rate of at least 10% annually. Our projected net profit after expenses for the first year is approximately \$40,000. We plan to reinvest a portion of our profits into the business to expand our offerings and further grow our customer base.

Conclusion: In conclusion, our Bank Heist Experience will provide a new form of entertainment for visitors in Daytona Beach Shores and surrounding areas. With a strong marketing strategy and a unique and exciting experience, we are confident that we will achieve success and become a valuable addition to the city's tourism industry.

EDP EVALUATION CRITERIA- LEASE SUBSIDY

Business Name:	Bank Heist Experience, LLC			Proposed Address:	2416 S. Atlantic Avenue		
Business Type:	Recreational	Vacant Space:	Y/N	Evaluation Date:	5/3/2023	Application No.:	

A	Mandatory Criteria-City Planner	Yes	No	Comment
1	Location in Targeted Area?	X		Located on the west side of A1A
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		

	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			6 – 10 employees
2	Desirability of Business?	x			
3	Amount of Capital Investment Made?		X		\$35,000
4	New Business-Ability to Attract Other Targeted Businesses?		X		
5	Business Expansion-Satisfies Economic Development Needs of City?		X		
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 BANK HEIST EXPERIENCE, LLC.

THIS COMMERCIAL LEASE SUBSIDY GRANT AGREEMENT (hereinafter, the “Agreement”) is made and entered into this ____ day of_____, 2023, 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 Bank Heist Experience, LLC., 2416 South Atlantic Avenue, Daytona Beach Shores, FL 32118, 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: Bank Heist Experience

Located at: 2416 South Atlantic Avenue, 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 \$20,000.00 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 \$*****.

2. For the second year of the Lease Subsidy Grant: Monthly rent times 20%.

Total year two disbursement shall not exceed \$*****.

3. For the third year of the Lease Subsidy Grant: Monthly rent times 10%.

Total year three disbursement shall not exceed \$*****.

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

Kurt Swartzlander, City Manager

Approved as to form:

Becky Vose, CITY ATTORNEY

ATTEST:

Bank Heist Experience, LLC.

:

	Bank Heist Experience				
		Rent	Discount %		
1	6/15/2023	3,062.00	30%	918.60	918.60
2	7/15/2023	3,062.00	30%	918.60	1,837.20
3	8/15/2023	3,062.00	30%	918.60	2,755.80
4	9/15/2023	3,062.00	30%	918.60	3,674.40
5	10/15/2023	3,062.00	30%	918.60	4,593.00
6	11/15/2023	3,062.00	30%	918.60	5,511.60
7	12/15/2023	3,062.00	30%	918.60	6,430.20
8	1/15/2024	3,062.00	30%	918.60	7,348.80
9	2/15/2024	3,062.00	30%	918.60	8,267.40
10	3/15/2024	3,380.00	30%	1,014.00	9,281.40
11	4/15/2024	3,380.00	30%	1,014.00	10,295.40
12	5/15/2024	3,380.00	30%	1,014.00	11,309.40
13	6/15/2024	3,380.00	20%	676.00	11,985.40
14	7/15/2024	3,380.00	20%	676.00	12,661.40
15	8/15/2024	3,380.00	20%	676.00	13,337.40
16	9/15/2024	3,380.00	20%	676.00	14,013.40
17	10/15/2024	3,380.00	20%	676.00	14,689.40
18	11/15/2024	3,380.00	20%	676.00	15,365.40
19	12/15/2024	3,380.00	20%	676.00	16,041.40
20	1/15/2025	3,380.00	20%	676.00	16,717.40
21	2/15/2025	3,380.00	20%	676.00	17,393.40
22	3/15/2025	3,380.00	20%	676.00	18,069.40
23	4/15/2025	3,380.00	20%	676.00	18,745.40
24	5/15/2025	3,380.00	20%	676.00	19,421.40
25	6/15/2025	3,380.00	10%	338.00	19,759.40
26	7/15/2025	3,380.00	10%	240.60	20,000.00
27	8/15/2025	3,380.00	10%	-	20,000.00
28	9/15/2025	3,380.00	10%	-	20,000.00
29	10/15/2025	3,380.00	10%	-	20,000.00
30	11/15/2025	3,380.00	10%	-	20,000.00
31	12/15/2025	3,380.00	10%	-	20,000.00
32	1/15/2026	3,380.00	10%	-	20,000.00
33	2/15/2026	3,380.00	10%	-	20,000.00
34	3/15/2026	3,380.00	10%	-	20,000.00
35	4/15/2026	3,380.00	10%	-	20,000.00
36	5/15/2026	3,380.00	10%	-	20,000.00



CITY COMMISSION AGENDA MEMORANDUM MAY 23, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Nancy Maddox, Recreation Director

PREPARED BY: Nancy Maddox, Recreation Director

SUBJECT: Economic Development Lease Subsidy Grant Application - Riley's Coney House

SYNOPSIS:

The applicant, Riley's Coney House, submitted Economic Development Grant Application on May 3, 2023, to the Economic Development Committee, requesting a new business lease subsidy grant totaling the amount of \$**** over the course of three (3) years. The applicant recently opened the restaurant at 2125 S. Atlantic Avenue, Daytona Beach Shores, FL 32118. Riley's Coney House will serve lunch and dinner and plan to be open seven (7) days a week.

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.

Attached is the proposed grant agreement between the City and the applicant, the grant application and staff analysis of the grant application.

LEGAL REVIEW:

RECOMMENDATION:

The Economic Development Committee recommends approval of the subject grant application.

SUGGESTED MOTION:

1. "I move to approve the subject grant application and agreement as presented."

OR

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. Riley's lease subsidy grant application and business plan
2. riley lease
3. Riley's Coney House eval
4. Riley's Coney House Experience-Lease Subsidy Grant Agreement
5. Riley's Coney House Economic Development Lease Subsidy

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:

(Please Print)

REFERENCE:

APPLICANT NAME: Dave Lloyd

CONTACT PERSON (if an entity): Same

ADDRESS: 3468 Country Walk Dr

CITY: Port Orange

TELEPHONE: 386 -868-9889

STATE:

FL

ZIP: 32129

FAX:

EMAIL ADDRESS: LloydDave24@yahoo.com

APPLICANT BUSINESS STRUCTURE:

(Please check all that apply)

☐ Sole proprietorship/individual

☐ Corporation

☒ Limited Liability Company

☐ Other

GRANT TYPE:

(Check one only)

☒ Lease Subsidy
☒ New Business (Lease Subsidy)

☐ Existing Business Lease Extension

PROJECT SITE INFORMATION:

Address: 2125 S. Atlantic Ave

City: Daytona Beach Shores

Zip: 32118

State: FL

Tax Parcel ID: 531624000080

BASE REAL PROPERTY VALUE: \$250,000

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:



PRINTED NAME:

David Lloyd

DATE:

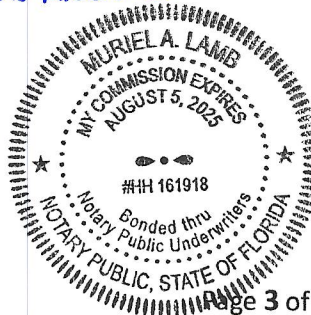
5/12/2023

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 12th day of May, 2023 by David Lloyd, who is personally known to me, OR who has produced FL Drivers License as identification and did (did not) take an oath.

My commission expires:




Printed Name: Muriel A. Lamb
NOTARY PUBLIC

PROPERTY ADDRESS:
TAX PARCEL ID:

Signed and sealed
in the presence of:

WITNESS #1 (Signature)

NAME PRINTED

WITNESS #2 (Signature)

NAME PRINTED

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this day of , 20 ,
by , who is personally known to me, OR who has
produced as identification and did (did not) take an oath.

My commission expires: 2-17-25

YVETTE A MYERS
Notary Public - State of Georgia
Douglas County
My Commission Expires Feb 17, 2025

*NOTE: If more than one owner please provide additional affidavit of ownership
for each owner.

OWNER (Printed Name)

OWNER (Signature)

Printed Name: Yvette A. Myers
NOTARY PUBLIC

AUTHORIZATION

I, _____, am the owner of the following described property:
PROPERTY ADDRESS: _____

I do hereby authorize the following named individual or entity to apply for an Economic Development grant and enter into an agreement with the City of Daytona Beach Shores.

AUTHORIZED REPRESENTATIVE:
(IF APPLICABLE)

PROPERTY OWNER (1) (Print Name)

Chetan Patel

PROPERTY OWNER (2) (Printed Name)

Chetan Patel

PROPERTY OWNER (1) (Signature)

Chetan Patel

PROPERTY OWNER (2) (Signature)

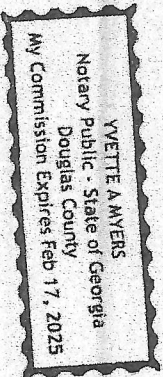
Chetan Patel

STATE OF FLORIDA Georgia

COUNTY OF VOLUSIA Cobb

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me, OR who has produced as identification and did (did not) take an oath.

My commission expires: 2-17-25



Printed Name:
NOTARY PUBLIC

Yvette A. Myers
Yvette A. Myers

LANDLORD:

BA DAYTONA INC Exchange LLC & BA Daytona LLC, as tenants in common
& Jordan Puleo
Owner
2875 SARGENT RD PLAWYSE
NORTH GADSDEN ALABAMA 36053

TENANT:

Dave Lloyd
Dave Lloyd

LANDLORD:

BA DAYTONA INC Exchange LLC & BA Daytona LLC, as tenants in common

By: C. Lloyd

Date: 5/15/2023

BA Daytona NC Exchange LLC & BA Daytona LLC, as tenants in common
Owner

TENANT:

Dave Lloyd, DRILBYDER ENTERPRISES LLC DBA RILEY'S CONEY HOUSE

By: Dave Lloyd

Date: 5/12/2023

Dave Lloyd

PERSONAL GUARANTEE:

Dave Lloyd

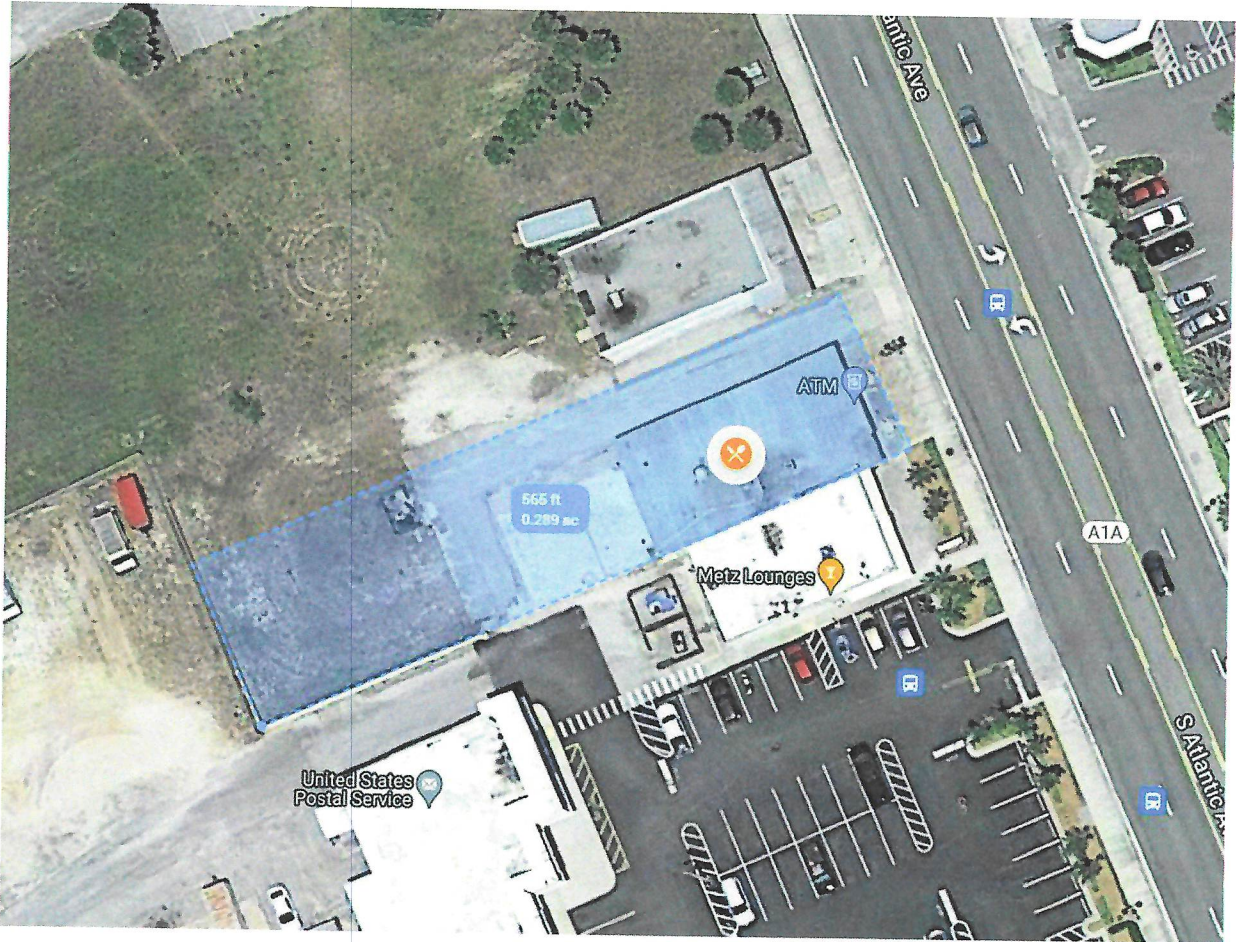
PROGRAM APPLICATION PROCESS

1. Applicant meets with staff to discuss economic development program and potential project eligibility.
2. Applicant submits a complete application for staff eligibility review.
3. Staff conducts eligibility review and prepares City Council report.
4. City Attorney drafts agreement for City Council consideration.
5. City Council evaluates application, staff report and draft agreement and makes a final determination in approval of the grant and associated terms.

GRANT PAYMENTS ELIGIBILITY AND PROCESS

1. The applicant shall provide make a request in writing and provide firm evidence to the Finance Director that all terms and conditions of the agreement approved by the City Council have been satisfied.
2. Upon review of the evidence provided and legal review, the Finance Director shall provide a recommendation to the City Manager who shall determine whether the applicant has met all terms and conditions of the agreement to the satisfaction of the City.

Exhibit A – The Premises



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.

LSP Program Requirements:

1. Only real property that is assigned a commercial, or similar, zoning classification consistent with the City's *Comprehensive Plan* and that will be used for a nonresidential or mixed use purpose (as set forth in a binding development agreement of development order) are eligible under the Program for lease subsidy assistance.
2. Lease subsidies may be made only to, or for the benefit of, a tenant and may only be used for development and renovations to real property or lease payments as determined by the City Council.
3. Normative lease underwriting criteria and documentation must be satisfied as part of the transaction to protect the City's interests, as determined under the authority and guidance of the Finance Director in conjunction with the City Attorney.
4. Should the grantee cease conducting business on the real property during the term of the lease subsidy; the City's subsidy payments shall cease.
5. The City shall not in any way guarantee any underlying loan or the lease relating to real property and the City does not pledge its full faith and credit to any extent by enacting or implementing this Ordinance and shall not be deemed to have done so to any degree or extent or to be a partner or co-venturer in any way.
6. The lease subsidy applicant must submit documentation to the City detailing the proposed development or renovation to be performed on the real property as well as details concerning the proposed lease and business activities. If approved by the City Council, the City will then issue a letter approving the subsidy subject to normal underwriting criteria as determined under the authority and guidance of the Finance Director in conjunction with the City Attorney.
7. Once the lease subsidy is approved, the applicant must submit full details of the proposed transaction to the City. The amount of the subsidy will then be fixed and the funds will be encumbered and appropriately released from time-to-time. Escrow accounts may be established in conjunction within City accounting systems or under the Finance Director with the City Attorney as needed.
8. The lease subsidy documents shall include, but not be limited to, documents to be filed of record which protect the interests of the City and shall provide that the City Manager must be notified should the real property which is the subject of the lease be sold, transferred, assigned or encumbered in any way or if the lease is terminated or sought to be terminated.

City Considerations (There Is No Entitlement To Approval):

1. Expansion of Existing Tenancies: As solely and exclusively determined by the City Council based upon the economic development needs of the City as determined by the City Council.
2. Existing Business Relocation: Relocation to a larger space will result in enhanced business operations or employment.
3. Lease Extension: (1) Lease is extended for a longer term of at least three (3) years; and (2) extension will result in enhanced business operations or employment.

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:

Nancy H. Maddox
Recreation & Economic Development Director
City of Daytona Beach Shores, FL 32118
(386)763-7572
nmaddox@cityofdb.org

To: Nancy Maddox
From: Riley's Coney House
RE: Business Plan DB Shores

Nearly 2 years ago, we opened Riley's Coney House in Port Orange, Fl. We have been truly Blessed by the continued support from this amazing community. Our Products and Customer Service speaks for itself. Recognized for the Best Coney Dogs in the area, we also were voted in the top 5 for our 10 ounce gourmet char grilled burgers and our daily specials by the Daytona Beach News Journal.

We quickly have outgrown our facility in Port Orange and have always wanted to open a small local business beach side. The former Beachside Grille located at 2132 Atlantic ave (A1A) Daytona Beach Shores would be the perfect location. Already having many residents from the Shores visiting Riley's on a daily basis, we would now have a great opportunity to serve an even larger population while still maintaining business from NSB, Port Orange, DB and Ormond. We also have folks that come all the way from Orlando.

To be successful in the hospitality industry you must have two things:

1. Consistently great food at a competitive price.
2. Customer Service that goes above and beyond the customer's expectations.

Are we perfect every single day, Absolutely Not! Do we pride ourselves on rectifying any situation ASAP so the customer has a great dining experience, Absolutely! Also many if not most customer's tell us they just have the vibe at Riley's. It's beyond family friendly and we have just about anything on the menu to satisfy everyone's cravings. Our slogan since day 1 has been "Riley's A Place For Everyone."

As small local business owners, we also realize the importance of giving back to the community. We do Spirit Nights to raise money for local PTA'S, Cancer benefits and are involved in charities for Pawsabilities and Sophie's Circle. Also, we give 20% discount to all First Responders, Military (active or retired) and hand out many gift certificates as donations to other charities.

In conclusion, there are many ways our family friendly restaurant will enhance Daytona Beach Shores. As stated, Riley's is "A Place For Everyone" that prides ourselves on outstanding food and customer service. Also, with positive attitudes and work ethics, you can see why the local foodie group (34,000 members) voted us fastest growing small restaurant in the area. As hard working hands on owners, we know what it takes to operate a successful small local restaurant.

Finally, we will do a menu analysis to make sure every single item is prepared to perfection, while adding a few new item's as features upon customers requests. From studying demographics, we will offer Early Bird Specials either 3-6 pm or 4-7 pm for those who like less food, less price and less crowds. Other ways for us to prosper quickly will be to add "Mom's Specials", large quality portions of pre packaged dinners for takeout, a retail section for our chili's and sides and brand new dessert selections. Also, having great experience in promotions with Ocean Deck, we will set aside a day for service industry employees with all day discounts on food and beverage.

Thank you in advance for consideration Nancy, and if you need any additional information please let us know.

Dave & Cory Lloyd
Riley's Coney House
(386) 868-9899

REAL ESTATE LEASE

This Lease Agreement (this "Lease") is dated March 27, 2023, by and between BA Daytona NC Exchange LLC & BA Daytona LLC, as Tenants in Common ("Landlord"), and Dave Lloyd and DRLLOYDER ENTERPRISES LLC DBA RILEYS CONEY HOUSE ("Tenant"). The parties agree as follows:

PREMISES. Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant property including parking lot (the "Premises") located at 2132 S Atlantic Ave, Daytona Beach Shores, Florida 32118. (See Attached Exhibit A)

TERM. The lease term will begin on June 01, 2023 and will terminate on May 31, 2026. It is understood that either party must provide written notification to the other thirty (30) days in advance of intent to vacate the Premises. Termination must occur at the end of the calendar month. Upon vacating the Premises, Tenant hereby agrees to return same in as good repair and "Broom Cleaned" condition as of the commencement date of the Lease, acceptable to Landlord's designated representative.

EARLY ACCESS. Tenant will be granted access to the Premises on May 01, 2023 to begin clean-up and necessary repairs in preparation for official opening of the restaurant.

TRIPLE NET LEASE. This Lease is what is commonly referred to as a "Triple Net Lease", it being the intention of the parties that Landlord shall not have any responsibility of any kind or nature whatsoever to maintain, repair, improve, alter or in any way incur any expense in connection with the Property, and that the rent and any other payments to be made by Tenant to or on behalf of Landlord under the terms hereof, are to be free and clear of any impositions, expenses or setoffs of any kind or nature whatsoever, including without limitation, any taxes, charges or expenses in connection with the ownership, maintenance, repair and operation of the Property, all such expenses, charges and taxes to be paid by Tenant as provided herein. Tenant shall pay for all water, gas, heat, light, power, telephone and other utilities and services supplied to the Premises, together with any taxes thereon and a proportionate share of real property taxes, all-risk and earthquake insurance, and common area maintenance expenses. If any such services are not separately metered to Tenant, Tenant shall pay a reasonable, proportionate share as determined by Landlord of all charges jointly metered with other Premises.

LEASE PAYMENTS. Tenant shall pay to Landlord monthly installments of **\$3,200.00** plus applicable sales tax and real estate taxes totaling **\$3,500.00**, payable in advance on the first day of each month. Lease payments shall be made to the Landlord at 2125 S Atlantic Ave, Daytona Beach Shores, FL 32118, which address may be changed from time to time by the Landlord.

RENT ESCALATIONS. The amount of the current monthly base rent of \$3,200 shall remain fixed through May 31, 2024. Effective as of the following "Adjustment Dates," June 1, 2024, and June 1 of each year thereafter during the Term, the base rent shall be increased as follows. The base rent for the next twelve (12) months of the Term shall be determined by multiplying the base rent for the lease year ending on May 31 immediately prior to the Adjustment Date times 107.5% representing a 7.5% annual increase.

RENT ABATEMENT. For the period beginning on the first (1st) month of the first year of this lease agreement and ending on the last day of the third (3rd) month of this lease agreement, rent abatement has been granted to Tenant in the form of a reduced monthly rental installment amount per the schedule provided below:

June 1, 2023 - \$1500.00	July 1, 2023 - \$2000.00	August 1, 2023: \$2500.00
--------------------------	--------------------------	---------------------------

September 1, 2023 to May 1, 2024: \$3500.00 per month

PERCENTAGE RENT. In addition to Minimum Rent, Tenant shall pay Landlord percentage rent ("Percentage Rent") as determined by this Section. Percentage Rent shall be determined and payable

annually on or before the tenth (10th) day following the close of current lease Term during which the amount of Tenant's year-to-date Gross Sales exceeds Tenant's year-to-date Gross Sales Breakpoint. For purposes of this computation, the term "Year-to-Date Gross Sales Breakpoint" shall be \$900,000. Said payments of Percentage Rent shall be calculated by multiplying (i) the amount of the excess of year-to-date Gross Sales over the Year-to-Date Gross Sales Breakpoint, by (ii) five (5) percent.

MONTHLY SALES REPORTS. Tenant shall remit to Landlord by the fifth (5th) day following the end of the month a monthly gross sales report for the purposes of aggregating monthly sales to date to be used in the calculation of percentage rent.

INSPECTION REPORTS. Tenant shall remit to Landlord by the fifth (5th) day following the end of the month all inspection reports conducted by authorized persons i.e. health inspections, building inspections, etc.

ESTIMATED PAYMENTS. Tenant shall be notified by Landlord of Estimated Payments for, insurance, maintenance of the landscaping and parking lot, and landscaping and parking lot utilities and services from time to time. The Estimated Payments shall be paid by Tenant together with rent, on the first day of each month throughout the Term. The Estimated Payments may be increased or decreased by Landlord upon written notice to Tenant based upon statements received or charges incurred by Landlord, information available to Landlord as to the probable cost of expected charges and expenses, or the reasonable estimate of Landlord as to the probable amount of expected charges or expenses. Landlord shall be entitled to retain the monies received from such payments in its general fund pending payment of all such costs and charges. No more frequently than once each calendar quarter, the actual costs shall be determined by Landlord, and Tenant shall remit to Landlord on demand its unpaid pro rata share of the actual expense. In the event Tenant paid more than the actual expenses for such period of time, Landlord shall apply such overpayment towards the next Estimated Payments owing by Tenant. At the termination of this Lease, an accounting for such charges and expenses shall be made to the nearest practical accounting period, and Tenant shall pay to Landlord any balance due, or the Landlord shall refund to Tenant any excess amount paid. Any Estimated Payments hereunder shall constitute additional rent under the terms of this Lease Agreement.

SECURITY DEPOSIT. At the time of the signing of this Lease, Tenant shall pay to Landlord, a holding security deposit of **\$3,200.00** to be held and disbursed for Tenant damages to the Premises (if any) as provided by law.

POSSESSION. Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

USE OF PREMISES. Tenant may use the Premises only for Restaurant. The Premises may be used for any other purpose only with the prior written consent of Landlord, which shall not be unreasonably withheld. Tenant shall notify Landlord of any anticipated extended absence from the Premises not later than the first day of the extended absence.

ALTERATIONS. Tenant covenants and agrees that all Alterations constructed on the Property or work performed or caused to be performed by Tenant shall be in full compliance with all laws, rules, orders, ordinances, directions, codes, regulations and requirements of all governmental agencies, offices, departments, bureaus, and boards having jurisdiction over the Property. Tenant shall provide Landlord with at least 14 days' notice prior to having any construction materials delivered to the Property or

commencing construction of any improvements and shall reasonably cooperate with Landlord in the posting of a notice of non-responsibility.

COST OF ALTERATIONS. Tenant shall pay all costs of constructing any such Alterations approved by Landlord including but not limited to fees and costs charged by architects, engineers, the general contractor, subcontractors, and laborers and material men, and shall not permit any mechanic's or materialmen's lien to be filed against the Property in connection therewith.

PROPERTY INSURANCE. Tenant shall maintain casualty property insurance on the Premises and all improvements against loss or damage by fire and lightning and against loss or damage by other risks in an amount not less than 100% of the full replacement value. Landlord shall be named as an additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. All insurance proceeds payable by the occurrence of any covered loss shall be payable to Landlord, and Tenant shall have no right or claim to any such insurance proceeds payable with respect to the Improvements, excluding, however, any such proceeds that may be payable with respect to Tenant's personal property or trade fixtures.

Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

LIABILITY/PROPERTY INSURANCE. Tenant shall maintain liability insurance on the Premises in a total aggregate sum of at least \$2,000,000.00. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Property insurance shall be no less than \$275,000 with BA Daytona NC Exchange LLC & BA Daytona LLC, as Tenants in Common as the Benefactor.

MAINTENANCE. Tenant shall have the responsibility to maintain the Premises in good repair at all times during the term of this Lease.

UTILITIES AND SERVICES. Tenant shall be responsible for all utilities and services incurred in connection with the Premises.

Tenant acknowledges that Landlord has fully explained to Tenant the utility rates, charges and services for which Tenant will be required to pay to Landlord (if any), other than those to be paid directly to the third-party provider.

TAXES. Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

REAL ESTATE TAXES. Tenant shall pay all real estate taxes and assessments which are assessed against the Premises during the time of this Lease. "Real Property Taxes" shall include any form of assessment, license, fee, rent, tax, levy, penalty or tax imposed by any authority having the direct or indirect power to tax, including any improvement district, as against any legal or equitable interest of Landlord in the Premises or as against Landlord's business of renting the Premises. Tenant's share of Real Property Taxes shall be equitably prorated to cover only the period of time within the fiscal tax year during which this Lease is in effect. With respect to any assessments which may be levied against or upon the Premises, and which may be paid in annual installments, only the amount of such annual installments (with appropriate proration for any partial year) and interest due thereon shall be included within the computation of the annual Real Property Taxes. Landlord represents that, to the best of his knowledge, there are no assessment or improvement districts being planned which would affect the Premises

other than as in effect as of the date of this Lease. Tenant is responsible for a prorated portion of taxes for partial use of premises on parcel #531624000080 and parcel #531624000081.

PERSONAL TAXES. Tenant shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales and /or use taxes (if any) that may be due in connection with lease payments. Accordingly, Tenant shall pay before delinquency all taxes levied or assessed on Tenant 's fixtures, improvements, furnishings, merchandise, equipment, and personal property in and on the Premises, whether or not affixed to the real property. If Tenant in good faith contests the validity of any such personal property taxes, then Tenant shall at its sole expense defend itself and Landlord against the same and shall pay and satisfy any adverse determination or judgment that may be rendered thereon and shall furnish Landlord with a surety bond satisfactory to Landlord in an amount equal to 150% of such contested taxes. Tenant shall indemnify Landlord against liability for any such taxes and/or any liens placed on the Premises in connection with such taxes. If at any time after any tax or assessment has become due or payable Tenant or its legal representative neglects to pay such tax or assessment, Landlord shall be entitled, but not obligated, to pay the same at any time thereafter and such amount so paid by Landlord shall be repaid by Tenant to Landlord with Tenant's next rent installment together with interest at the highest rate allowable by law.

TERMINATION BY LANDLORD. Notwithstanding any other provision of this Lease, at any time after the end of the first year of the term of this lease, defined as May 31, 2024, it is agreed that Landlord may terminate this lease upon 90 days' written notice to Tenant.

TERMINATION CLAUSE. Tenant may, upon 30 days' written notice to Landlord, terminate this lease provided that the Tenant pays a termination charge equal to 2 months' rent. Termination will be effective as of the last day of the calendar month following the end of the 30-day notice period. Termination charge will be in addition to all rent due and additional rent due up to the termination day.

EXCEPTION TO TERMINATION CHARGE. Tenant may, upon 30 days' written notice to Landlord, terminate this lease prior to the start of the next Adjustment Date with no termination charge due, provided that Tenant's last day of occupancy falls on May 31, 2024 or May 31, 2025.

DEFAULTS. Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 3 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law or equity.

LATE PAYMENTS. For each payment that is not paid within 10 days after its due date, Tenant shall pay a late fee equal to 10 % of the required payment.

HOLDOVER. If Tenant maintains possession of the Premises for any period after the termination of this Lease ("Holdover Period"), Tenant shall pay to Landlord lease payment(s) during the Holdover Period at a rate equal to double the amount of the most recent rate preceding the Holdover Period. Such holdover shall constitute a month-to- month extension of this Lease.

CUMULATIVE RIGHTS. The rights of the parties under this Lease are cumulative and shall not be construed as exclusive unless otherwise required by law.

NON-SUFFICIENT FUNDS. Tenant shall be charged \$200.00 for each check that is returned to Landlord for lack of sufficient funds.

REMODELING OR STRUCTURAL IMPROVEMENTS. Tenant shall have the obligation to conduct any construction or remodeling (at Tenant's expense) that may be required to use the Premises as specified above. Tenant may also construct such fixtures on the Premises (at Tenant's expense) that appropriately facilitate its use for such purposes. Such construction shall be undertaken and such fixtures may be erected only with the prior written consent of the Landlord which shall not be unreasonably withheld. Tenant shall not install awnings or advertisements on any part of the Premises without Landlord's prior written consent. At the end of the lease term, Tenant shall be entitled to remove (or at the request of Landlord shall remove) such fixtures and shall restore the Premises to substantially the same condition of the Premises at the commencement of this Lease.

ACCESS BY LANDLORD TO PREMISES. Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants, or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

INDEMNITY REGARDING USE OF PREMISES. To the extent permitted by law, Tenant agrees to indemnify, hold harmless, and defend Landlord from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Landlord may suffer or incur in connection with Tenant's possession, use or misuse of the Premises, except Landlord's act or negligence.

DANGEROUS MATERIALS. Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained, and proof of adequate insurance protection is provided by Tenant to Landlord. However, Tenant shall be entitled to use and store only those Hazardous Materials, that are necessary for Tenant's business, provided that such usage and storage is in full compliance with all applicable local, state, and federal statutes, orders, ordinances, rules, and regulations (as interpreted by judicial and administrative decisions). Tenant shall not keep or store on the Premises chemicals in quantities, amounts, concentrations, or type which are in excess of those permitted by local, state or federal laws, regulations or ordinances.

Tenant shall give to Landlord immediate verbal and follow-up written notice of any spills, releases, or discharges of Hazardous Materials on the Premises, or in any common areas or parking lots (if not considered part of the Premises), caused by the acts or omissions of Tenant, or its agents, employees, representatives, invitees, licensees, subtenants, customers or contractors. Tenant covenants to investigate, clean up and otherwise remediate any spill, release or discharge of Hazardous Materials caused by the acts or omissions of Tenant, or its agents, employees, representatives, invitees, licensees, subtenants, customers or contractors at Tenant's cost and expense; such investigation, clean up and remediation to be performed after Tenant has obtained Landlord's written consent, which shall not be unreasonably withheld; provided, however, that Tenant shall be entitled to respond immediately to an emergency without first obtaining Landlord's written consent. Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, judgments, damages, penalties, fines, liabilities, losses, suits, administrative proceedings and costs (including, but not limited to, attorneys' and consultant

fees) arising from or related to the use, presence, transportation, storage, disposal, spill, release or discharge of Hazardous Materials on or about the Premises caused by the acts or omissions of Tenant, its agents, employees, representatives, invitees, licensees, subtenants, customers or contractors. Tenant shall not be entitled to install any tanks under, on or about the Premises for the storage of Hazardous Materials without the express written consent of Landlord, which may be given or withheld in Landlord's sole discretion.

COMPLIANCE WITH REGULATIONS. Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be required to make alterations to the exterior of the building or alterations of a structural nature.

MECHANICS LIENS. Neither the Tenant nor anyone claiming through the Tenant shall have the right to file mechanics liens or any other kind of lien on the Premises and the filing of this Lease constitutes notice that such liens are invalid. Further, Tenant agrees to (1) give actual advance notice to any contractors, subcontractors or suppliers of goods, labor, or services that such liens will not be valid, and (2) take whatever additional steps that are necessary in order to keep the premises free of all liens resulting from construction done by or for the Tenant.

SUBORDINATION OF LEASE. This Lease is subordinate to any mortgage that now exists, or may be given later by Landlord, with respect to the Premises.

OTHER. Triple net Lease: Tenant is responsible for property taxes, all building maintenance, and all insurance.

UTILITIES, REPAIRS, MAINTENANCE & TAXES. Tenant, at his expense, shall maintain and keep the premises, including, without limitation, windows, including plate glass windows, roof, doors, equipment, furniture, exterior walls, skylights, adjacent sidewalks, (storefront), and interior walls, in good repair. Tenant shall also pay any tangible taxes on the personal property, special assessments, or other governmental charges. It is the intent of the parties that the sole obligation of the real property taxes assessed against the Premises shall be on the Tenant. All other charges and costs shall be the responsibility of the Lessee. Tenant shall pay all charges, fees, and assessments for water, gas, electricity, garbage collection, fuel, light, heat, and other utilities used or consumed in connection with the Premises during the term hereto to the extent such expenses are not covered by the Additional Rent.

1. Tenant shall maintain building insurance of \$275,000.00 coverage with BA Daytona NC Exchange LLC & BA Daytona LLC, as Tenants in Common as an additional insured and the benefactor.

2. Tenant must service Air Conditioning system at least once every six months, by a licensed HVAC company, furnishing proof to Landlord upon each service.

3. Rent shall be \$3200 per month for year 1, \$3440 per month for year 2, and \$3698 per month for year 3 plus applicable sales tax.

4. Lease shall be for 36 months without automatic renewal option.

5. Tenant shall mail/deliver rent check to 2125 S. Atlantic Ave, Daytona Beach Shores, FL. 32118 so that it will arrive on the 1st of the month.

6. Tenant shall pay Landlord a prorated portion of property taxes for partial use of both parcels 531624000080 and parcel 531624000081 at the time monthly rent payments are due.

ASSIGNABILITY/SUBLETTING. Tenant may not assign or sublease any interest in the Premises, nor effect a change in the majority ownership of the Tenant (from the ownership existing at the inception of this

lease), nor assign, mortgage, or pledge this Lease, without the prior written consent of Landlord, which shall not be unreasonably withheld.

Such addresses may be changed from time to time by either party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

GOVERNING LAW. This Lease shall be construed in accordance with the laws of the State of Florida.

ENTIRE AGREEMENT/AMENDMENT. This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

BINDING EFFECT. The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

SIGNATURES AND NOTICE. This lease shall void any and all previous leases. This Lease shall be signed by the following parties. No notice under this Lease shall be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed to the parties below:

PERSONAL GUARANTY OF RESTAURANT LEASE AGREEMENT

In consideration of the lease agreement entered into between BA DAYTONA NC EXCHANGE LLC & BA DAYTONA LLC as Tenants In Common, herein referred to as LANDLORD, and Dave Lloyd, DRLOYDER ENTERPRISES LLC DBA RILEYS CONEY HOUSE, herein referred to as TENANT, for the Premises located at 2132 S Atlantic Ave, Daytona Beach Shores, Florida 32118, it is hereby agreed that the undersigned GUARANTOR does hereby unconditionally guaranty to LANDLORD the timely and full payment of all rent and other financial obligations now or hereinafter due LANDLORD and full performance of all other terms of the lease agreement.

1. This guaranty survives with NO NOTICE TO THE GUARANTOR of any lease transfer, subleasing, modification of the lease, extension of lease, conversion to a month to month lease, hold over tenancy, forbearance or resigning of a new lease of any length.

2. Any and all disputes between the TENANT and LANDLORD, violation of lease term by any party, or failure of either party to demand strict performance does NOT waive this personal guaranty.

3. LANDLORD is not obligated to first attempt recovery for any breach of the lease agreement, or non-payment of rent or other financial obligations against the TENANT, and may immediately seek enforcement of this guaranty. Any and all lawsuits may be brought by the LANDLORD against the TENANT and GUARANTOR, either jointly or individually.

4. In the event payments due under this guaranty are not paid as agreed upon, then the undersigned shall pay all reasonable costs and attorney's fees necessary for collection, and enforcement of this guaranty. In the event of a refund of any monies paid pursuant to the terms of the lease agreement, such monies shall be refunded solely to TENANT, regardless if paid by the GURANTOR.

5. All terms and provisions of this personal guaranty are for the benefit of the LANDLORD, its successors and assigns and shall be binding upon the heirs, personal representatives, successors and assigns of the GUARANTOR.

6. Each of the undersigned warrants and represents it has full authority to enter into this guaranty. This guaranty shall be construed and enforced under the laws of the State of Florida.

Signed this 16th day of May, 2023.

Dave Lloyd
Guarantor (Signature)

DAVID LLOYD
Guarantor (Printed Name)

2132 S Atlantic Ave.
Street Address

Daytona Beach Shores, FL 32118
City/State and Zip

014-54-8225 11/08/1963
SSN# DOB

Corrina Lloyd
Witness # 1 (Signature)

Corrina Lloyd
Witness #1 (Printed Name)

Ronnie Garney
Witness # 2 (Signature)

Ronnie Garney
Witness #2 (Printed Name)

LANDLORD:

BA Daytons NC Exchange LLC & BA Daytons LLC, as tenants in common
c/o Brian Ford
Owner
2875 Spring Hill Place SE
Atlanta, Georgia 30329

TENANT:

Dave Lloyd
Dave Lloyd

LANDLORD:

BA Daytons NC Exchange LLC & BA Daytons LLC, as Tenants in Common

By: C. B. Ford

Date: 5/15/2023

BA Daytons NC Exchange LLC & BA Daytons LLC, as Tenants in Common
Owner

TENANT:

Dave Lloyd, DELLOYDER ENTERPRISES LLC DBA RILEYS CONEY HOUSE

By: Dave Lloyd

Date: 5/12/2023

Dave Lloyd

PERSONAL GUARANTEE:

Dave Lloyd

EDP EVALUATION CRITERIA- LEASE SUBSIDY							
Business Name:	DRILLOYDER Enterprises LLC, D/B/A Riley's Coney House			Proposed Address:	2132 S. Atlantic Avenue		
Business Type:	Restaurant	Vacant Space:	Y/N	Evaluation Date:	5/3/2023	Application No.:	
A	Mandatory Criteria-City Planner			Yes	No	Comment	
1	Location in Targeted Area?			X		Located on the west side of A1A	
2	Targeted Business?			X		Open for lunch and dinner	
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			

	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			6 – 10 employees
2	Desirability of Business?	x			
3	Amount of Capital Investment Made?	X			The landlord is doing most of the improvements to the building. Minimum capital funding made by the tenant.
4	<i>New Business</i> -Ability to Attract Other Targeted Businesses?		X		
5	<i>Business Expansion</i> -Satisfies Economic Development Needs of City?		X		
6	<i>Business Relocation</i> -Enhance Operations ?				n/a
7	<i>Business Relocation</i> -Enhance Employment?				n/a
8	<i>Lease Extension</i> -Enhance Operations?				n/a
9	<i>Lease Extension</i> -Enhance Employment?				n/a
10	Additional City Council Criteria				n/a

**CITY OF DAYTONA BEACH SHORES/COMMERCIAL LEASE SUBSIDY
GRANT AGREEMENT WITH DRLOYDER ENTERPRISES, LLC. D/B/A
RILEY’S CONEY HOUSE**

THIS COMMERCIAL LEASE SUBSIDY GRANT AGREEMENT (hereinafter, the “Agreement”) is made and entered into this ____ day of _____, 2023, 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 Riley’s Coney House, 2125 South Atlantic Avenue, Daytona Beach Shores, FL 32118, 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: Riley's Coney House

Located at: 2125 South Atlantic Avenue, 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 \$20,000.00 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 \$*****.

2. For the second year of the Lease Subsidy Grant: Monthly rent times 20%.

Total year two disbursement shall not exceed \$*****.

3. For the third year of the Lease Subsidy Grant: Monthly rent times 10%.

Total year three disbursement shall not exceed \$*****.

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

Kurt Swartzlander, City Manager

Approved as to form:

Becky Vose, CITY ATTORNEY

ATTEST:

Riley's Coney House

:

	Riley's Coney House				
		Rent	Discount %		
1	6/1/2023	3,200.00	30%	960.00	960.00
2	7/1/2023	3,200.00	30%	960.00	1,920.00
3	8/1/2023	3,200.00	30%	960.00	2,880.00
4	9/1/2023	3,200.00	30%	960.00	3,840.00
5	10/1/2023	3,200.00	30%	960.00	4,800.00
6	11/1/2023	3,200.00	30%	960.00	5,760.00
7	12/1/2023	3,200.00	30%	960.00	6,720.00
8	1/1/2024	3,200.00	30%	960.00	7,680.00
9	2/1/2024	3,200.00	30%	960.00	8,640.00
10	3/1/2024	3,200.00	30%	960.00	9,600.00
11	4/1/2024	3,200.00	30%	960.00	10,560.00
12	5/1/2024	3,200.00	30%	960.00	11,520.00
13	6/1/2024	3,440.00	20%	688.00	12,208.00
14	7/1/2024	3,440.00	20%	688.00	12,896.00
15	8/1/2024	3,440.00	20%	688.00	13,584.00
16	9/1/2024	3,440.00	20%	688.00	14,272.00
17	10/1/2024	3,440.00	20%	688.00	14,960.00
18	11/1/2024	3,440.00	20%	688.00	15,648.00
19	12/1/2024	3,440.00	20%	688.00	16,336.00
20	1/1/2025	3,440.00	20%	688.00	17,024.00
21	2/1/2025	3,440.00	20%	688.00	17,712.00
22	3/1/2025	3,440.00	20%	688.00	18,400.00
23	4/1/2025	3,440.00	20%	688.00	19,088.00
24	5/1/2025	3,440.00	20%	688.00	19,776.00
25	6/1/2025	3,698.00	10%	224.00	20,000.00
26	7/1/2025		10%	-	20,000.00
27	8/1/2025		10%	-	20,000.00
28	9/1/2025		10%	-	20,000.00
29	10/1/2025		10%	-	20,000.00
30	11/1/2025		10%	-	20,000.00
31	12/1/2025		10%	-	20,000.00
32	1/1/2026		10%	-	20,000.00
33	2/1/2026		10%	-	20,000.00
34	3/1/2026		10%	-	20,000.00
35	4/1/2026		10%	-	20,000.00
36	5/1/2026		10%	-	20,000.00



**CITY COMMISSION AGENDA MEMORANDUM
MAY 23, 2023 AGENDA**

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Sea Wall presentation by Commissioner Bryan

SYNOPSIS:

This item was requested by Commissioner Richard Bryan.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: 1. sea wall presentation by Bryan 5-23-23

Seawall Designs for Daytona Beach Shores

24 May 2023

DBS has about 5.5 miles of coastline and is about 10% of the Volusia County coastline. We had more damage from Ian and Nicole than the other 90% combined. The reduction in property value was estimated at 340 million dollars which happens to be about 20 times the city's annual budget.

If you are interested in seeing a helicopter view of the damage, you can watch a 10-minute video at:

<https://www.dropbox.com/s/pddp3ulkgp5qqh0/Hurricane%20Nicole%20-%20VCSO%20Highlights-Mark%20Edit.mp4?dl=0>

If you are interested in a more technical discussion of seawalls, please see the video of the 6 April 2023 seawall meeting at:

https://www.youtube.com/watch?v=a_hWnleqdic

The seawall designs for DBS seawalls include:

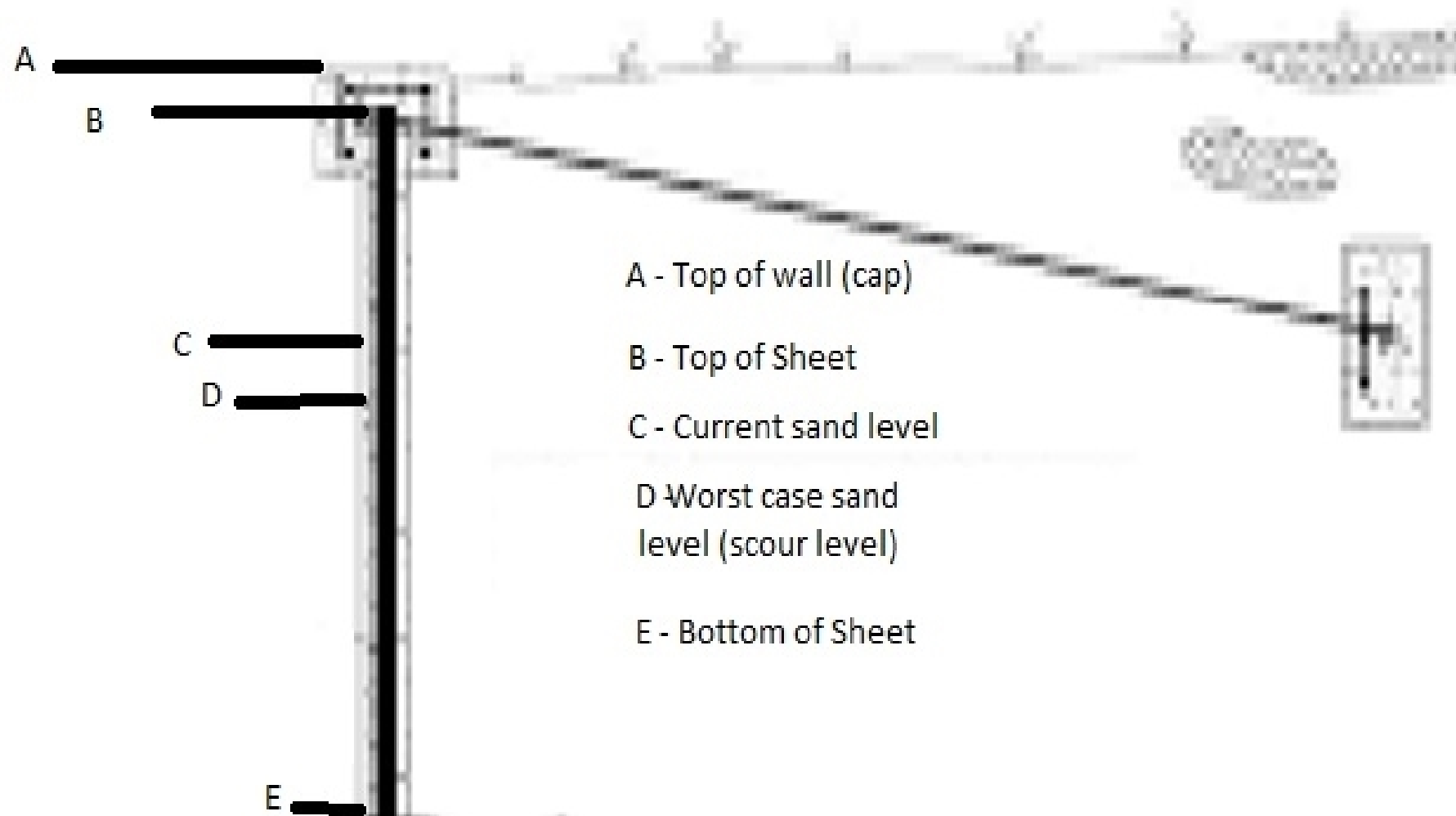
Sheet pile designs

With tie backs – steel, composites, reinforced concrete, “true-line”

Without tie backs (cantilevered) – steel

Gravity design

Redi-rock – large concrete “Legos”





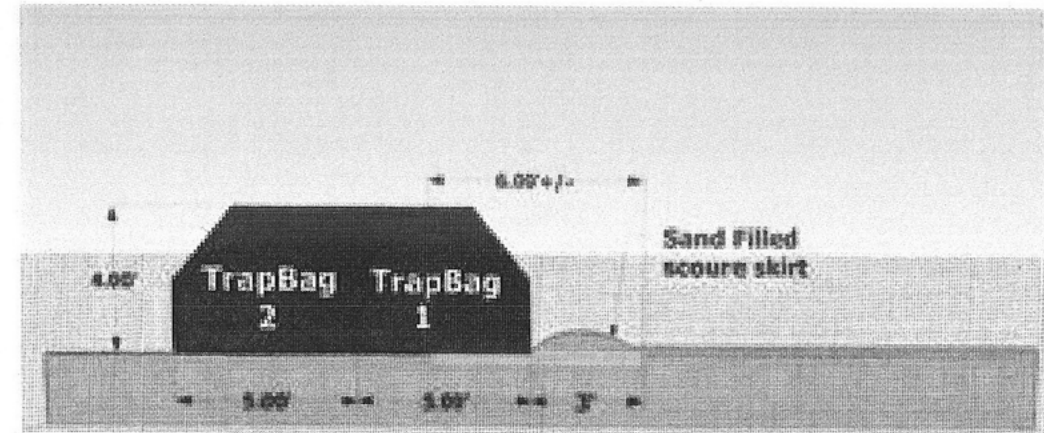


If neighbors get together to build a common seawall that spans their properties, they can save a lot of money depending on how many properties are spanned and the total length of the seawall.

Since there will be many coastal properties in DBS and elsewhere that will not have permanent armoring even by the end of the upcoming hurricane season, it is very important that as close to 100% as possible have at least temporary armoring that will protect against significant upland erosion with high probability.

COASTAL RECOVERY – BEACH RESTORATION

- Bethune Beach Sand Recovery
 - Ready for deployment
- \$5-million Emergency Sand Placement
 - Focus on armament utilizing trap bags
 - Sand source: FIND pit in Edgewater
 - Deployment pending FDEP permit issuance and acquisition of easements
- FDEP's Ian & Nicole Recovery Plan
 - \$37.6-million for dune nourishment
 - Acquisition of sand sources
 - FDEP grant contract to go to County Council on March 21st for approval





There are 2 very important short-term things that I think DBS (and the County) should do:

a. Determine if the 3-trap bag configuration (one on top of 2 with backfill to the escarpment) will likely prevent significant upland erosion during the upcoming hurricane season. If so, encourage property owners that will likely not have permanent armoring to implement the 3-trap bag configuration.

b. Do everything possible to encourage coastal property owners to cooperate with their neighbors in building a common seawall for at least their immediate neighborhood.