



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COMMISSION MEETING JANUARY 9, 2024

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

- 1. CALL TO ORDER BY MAYOR**
- 2. ROLL CALL BY CITY CLERK**
- 3. PRAYER**
- 4. PLEDGE OF ALLEGIANCE**
- 5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:**
 - A. Employee of the Year Award
 - B. Certificate of Achievement for Excellence in Financial Reporting
- 6. APPROVAL OF MINUTES**
 - A. City Commission Minutes December 12, 2023
- 7. CONSENT AGENDA:**

- A. Renewal of Non-Exclusive Construction & Demolition Debris And Recyclables Removal Franchise - Creech Enterprises, Inc., dba Southeast Containers
- B. Renewal of Non-Exclusive Construction & Demolition Debris And Recyclables Removal Franchise - Samsula Waste, Inc.
- C. IPTM Pedestrian Safety Grant

8. OLD BUSINESS:

9. NEW BUSINESS:

- A. Procedure for Appointing Replacement Commissioners
- B. Appointment of New Commissioners to fill seats 2 and 3
- C. Ordinance 2024-01: Requiring The Posting Of Addresses On The East side Of Properties Adjacent To The Beach
- D. Ordinance 2024-02: A Request by B&Y, Inc. To Vacate And Abandon A Portion of Fraile Street (Alley) Right-of-Way
- E. Ordinance 2024-03: Sewer Development Impact Fee
- F. Ordinance 2024-04: Daytona Beach Shores, LLC Development Agreement - 3411 S. Atlantic Avenue-Serena by the Shores.
- G. Resolution 2024-02 Adopting the 2023 Emergency Management Services Statewide Mutual Aid Agreement

10. CITY ATTORNEY COMMENTS

11. CITY MANAGER COMMENTS

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.



CITY COMMISSION AGENDA MEMORANDUM JANUARY 9, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Lory Irwin, Finance Director

PREPARED BY: Lory Irwin, Finance Director

SUBJECT: Certificate of Achievement for Excellence in Financial Reporting

SYNOPSIS:

The City of Daytona Beach Shores' annual comprehensive financial report for the fiscal year ended September 30, 2022 has met the requirements to be awarded GFOA's (Government Finance Officer's Association) Certificate of Achievement for Excellence in Financial Reporting. The GFOA established the Certificate of Achievement for Excellence in Financial Reporting Program (Certificate Program) in 1945 to encourage and assist state and local governments to go beyond the minimum requirements of generally accepted accounting principles to prepare annual comprehensive financial reports that evidence the spirit of transparency and full disclosure and then to recognize individual governments that succeed in achieving that goal. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting.

The city began participating in the program in FY 21-22 after approximately 10 years of not participating. This is the second consecutive year of receiving this honor.

FISCAL IMPACT STATEMENT:

BACKGROUND:

The City of Daytona Beach Shores' annual comprehensive financial report for the fiscal year ended September 30, 2022 has met the requirements to be awarded GFOA's (Government Finance Officer's Association) Certificate of Achievement for Excellence in Financial Reporting. The GFOA established the Certificate of Achievement for Excellence in Financial Reporting Program (Certificate Program) in 1945 to encourage and assist state and local governments to go beyond the minimum requirements of generally accepted accounting principles to prepare annual comprehensive financial reports that evidence the spirit of transparency and full disclosure and then to recognize individual governments that succeed in achieving that goal. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting.

The city began participating in the program in FY 21-22 after approximately 10 years of not participating. This is the second consecutive year of receiving this honor.

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT:

1. 5 - Certificate (1)
2. AFRA, Finance Department (1)



Government Finance Officers Association

Certificate of
Achievement
for Excellence
in Financial
Reporting

Presented to

**City of Daytona Beach Shores
Florida**

For its Annual Comprehensive
Financial Report
For the Fiscal Year Ended

September 30, 2022

Christopher P. Morill

Executive Director/CEO



**The Government Finance Officers Association of
the United States and Canada**

presents this

AWARD OF FINANCIAL REPORTING ACHIEVEMENT

to

Finance Department
City of Daytona Beach Shores, Florida



The Award of Financial Reporting Achievement is presented by the Government Finance Officers Association to the department or individual designated as instrumental in the government unit achieving a Certificate of Achievement for Excellence in Financial Reporting. A Certificate of Achievement is presented to those government units whose annual financial reports are judged to adhere to program standards and represents the highest award in government financial reporting.

Executive Director

Christopher P. Morrell

Date: 12/13/2023

MINUTES
CITY COMMISSION MEETING
December 12, 2023
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

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

Staff: City Manager Kurt Swartzlander, City Clerk Cheri Schwab, City Attorney Becky Vose, Community Services Director Stewart Cruz, Economic Engagement 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 November 14, 2023

COMMISSIONER MEL LINDAUER moved, seconded by COMMISSIONER CHRIS CONOMOS to Approve City Commission Minutes November 14, 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. State Forfeiture for ICAT Training

B. County Park Maintenance Agreement Amendment #1

- C. Labor/Employment Contract with Allen, Norton, and Blue
- D. Community Services Department Monthly Report - October 2023
- E. Public Safety monthly report - September 2023
- F. Public Safety monthly report - October 2023

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER RICHARD BRYAN 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. OLD BUSINESS:

9. NEW BUSINESS:

- A. Ordinance 2023-16: Authorizing Sewer Development (Impact) Fee Establishment By Resolution Of The City Commission

City Attorney Vose read the Ordinance by title only. Community Services Director Cruz explained that if approved, it would remove the sewer development impact fee from the City's Land Development Code and authorize the establishment of a fee by Resolution. He stated the impact fee should not have been included in the LDC section of the code.

COMMISSIONER RICHARD BRYAN moved, seconded by COMMISSIONER MEL LINDAUER to Approve Ordinance 2023-16 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. Ordinance 2023-17: Requiring The Posting Of Addresses On The East side Of Properties Adjacent To The Beach

This item was pulled from the agenda.

C. Resolution 23-18 Revising Wastewater Rates, Monthly Base Rates and Establishing Automatic Adjustments

City Attorney Vose read the Resolution by title only. City Manager Swartzlander explained that the resolution would increase the wastewater rate due to the recent increase from the City of Port Orange. The increase is a straight pass through this year. He distributed a rate survey of neighboring cities that included a 3000 gallon minimum, and we would fall in the middle.

COMMISSIONER CHRIS CONOMOS moved, seconded by VICE MAYOR MICHAEL POLITIS to Adopt Resolution 23-18 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

10. CITY ATTORNEY COMMENTS

Attorney Vose wished everyone a happy holiday season.

11. CITY MANAGER COMMENTS

City Manager Kurt Swartzlander updated the commission on a recent meeting he attended. There is a program coming to Volusia County called Best Foot Forward. It deals with pedestrian safety for crosswalks. The Shores will have at least one crosswalk in their studies next year.

12. COUNCIL COMMENTS:

Mayor Miller thanked everyone involved in the recent tree lighting ceremony. She reminded the audience of the Coffee With the Mayor the following day. Vice Mayor Politis has had many comments and compliments on the city's holiday lighting. Commissioner Conomos congratulated the Mainland High football team for winning the State Championship this year. The entire commission wished everyone a joyous holiday season. Commissioner Lindauer announced his resignation effective December 28, 2023, due to the new requirement of completing Form 6 for the State Ethics Commission. He felt the form was intrusive and an invasion of privacy. Attorney Vose stated that an appointment would need to happen within 30 days. Mayor Miller requested a workshop be held prior to the next commission meeting.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Bill Dryer spoke regarding Commissioner Lindauer's resignation. He praised him for his past work on both the Board Of Adjustments and the City Commission.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

There were no additional items added to the agenda.

15. ADJOURNMENT:

The meeting ended at 6:37 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
KURT D. SWARTZLANDER**

ATTEST:

CITY CLERK, CHERI SCHWAB



City of Daytona Beach Shores
Community Services Department
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377
Fax (386) 763-5370

(A)
RECEIVED
DEC 18 2023
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

NON-EXCLUSIVE FRANCHISE APPLICATION
CONSTRUCTION AND DEMOLITION DEBRIS
AND/OR RECYCLABLES COLLECTION

Applicant (Business): Creech Enterprises Inc. dba Southeast Containers
Business Address: 2960 S. Nova Rd., South Daytona FL 32119
Business Phone: 386-547-4182
Authorized Rep. Name & Title: Lowry Creech, V.P.
Authorized Rep. Contact Phone: 386-547-4185

Items Required for Application Submission:

- ☒ **Application:** completed, signed by applicant, & notarized
- ☒ **Annual Application/Renewal Fee** of \$1,000.00
- ☒ **Non-Exclusive Franchise Agreement:** completed, signed by franchisee, & attested-to
- ☒ **Proof of Liability Insurance** – All policies must have the City listed as additionally insured. Each franchisee shall secure and maintain a public liability insurance policy with the following minimum coverages:
 - \$1,000,000.00 for one (1) person injured
 - \$3,000,000.00 for more than one (1) person injured
 - \$3,000,000.00 for property damage
- ☒ **Performance Bond** in the amount of \$10,500.00.
- ☒ **Business Tax Receipt:** current, in the company's name
- ☒ **Disposal Plan:** Documentation of plan for disposal of all construction and demolition materials and/or recyclables collected within the City at an approved and licensed disposal site or recycling recovery facility.
- ☒ **Employee Policy:** Written policy addressing the hiring and retention of employees with regard to driving violations and random testing for use of illegal substances.

The below statements require the applicant to read and initial the corresponding line:

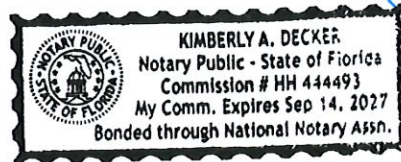
(Signature) **I agree**, as authorized representative, that I have received a copy of, read, and will comply with all provisions contained in DBS Ordinance Number 2009-07 and all applicable administrative rules.

P I agree, as authorized representative, that the franchisee will be, and shall be, subject to the schedule of liquidated damages set forth in Exhibit "A."

P I agree, as authorized representative, that the City Manager, or designee, may conduct an investigation into information contained herein and related to criminal or personal records for myself as an individual or, if a corporation, for itself and its officers and directors.

P I agree, as authorized representative, that, for the right and privilege of utilizing the streets and roadways of the City of Daytona Beach Shores, Florida, and to compensate the City for the burden of monitoring and regulating the above business, the undersigned applicant agrees to abide by all applicable Federal, State, County and City laws, codes, ordinances, rules and regulations.

P I agree, as authorized representative, the franchisee and its surety indemnify and save harmless the City, all its officers, officials, representatives, agents and employees from and against any and all claims, liability and damages arising, in any way, from or based on the violation of any such laws, codes, ordinances, rules and regulations and any orders or other decrees, whether by the franchisee, the franchisee's employees, agents or subcontractors as to any claims, liability, or damages which are based, in any way whatsoever, on the franchisee's conduct, misconduct or omissions.



[Signature]
Signature of Applicant

Officer, v.p.
Type of Authority for Business Named Above (E.g. Officer, Trustee)

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ✓ physical presence or _____ online notarization this 11 day of Dec., 2023, by LOWRY CREECH
(Name of Person) as OFFICER CREECH ENTERPRISES The signer is personally known ✓ or has produced the following identification _____.

[Signature]
Signature of Notary Public

RECEIVED

DEC 18 2023

☒ Documentation reviewed as complete by the Community Services Director: [Signature] on 12-26-23
Stewart Cruz Date

☐ Approved for City Commission Agenda Inclusion by the City Manager:

_____ on _____
Kurt Swartzlander Date

Action Taken by City Commission on _____ - Approved Denied Continued
Date



City of Daytona Beach Shores
Community Services Department
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377
Fax (386) 763-5370


RECEIVED
DEC 22 2023
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

NON-EXCLUSIVE FRANCHISE APPLICATION
CONSTRUCTION AND DEMOLITION DEBRIS
AND/OR RECYCLABLES COLLECTION

Applicant (Business): Samsula Waste, Inc
Business Address: 363 S State Rd 415 New Smyrna Beach FL 32168
Business Phone: 386-426-6769
Authorized Rep. Name & Title: Natasha McDonald, VP/ Sec
Authorized Rep. Contact Phone: 386-423-6769 or 386-547-4223

Items Required for Application Submission:

- ☒ **Application:** completed, signed by applicant, & notarized
- ☒ **Annual Application/Renewal Fee** of \$1,000.00
- ☒ **Non-Exclusive Franchise Agreement:** completed, signed by franchisee, & attested-to
- ☒ **Proof of Liability Insurance** – All policies must have the City listed as additionally insured. Each franchisee shall secure and maintain a public liability insurance policy with the following minimum coverages:
 - \$1,000,000.00 for one (1) person injured
 - \$3,000,000.00 for more than one (1) person injured
 - \$3,000,000.00 for property damage
- ☒ **Performance Bond** in the amount of \$10,500.00.
- ☒ **Business Tax Receipt:** current, in the company's name
- ☒ **Disposal Plan:** Documentation of plan for disposal of all construction and demolition materials and/or recyclables collected within the City at an approved and licensed disposal site or recycling recovery facility.
- ☒ **Employee Policy:** Written policy addressing the hiring and retention of employees with regard to driving violations and random testing for use of illegal substances.

The below statements require the applicant to read and initial the corresponding line:

NM **I agree**, as authorized representative, that I have received a copy of, read, and will comply with all provisions contained in DBS Ordinance Number 2009-07 and all applicable administrative rules.

RECEIVED

DEC 22 2023

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

NM I agree, as authorized representative, that the franchisee will be, and shall be, subject to the schedule of liquidated damages set forth in Exhibit "A."

NM I agree, as authorized representative, that the City Manager, or designee, may conduct an investigation into information contained herein and related to criminal or personal records for myself as an individual or, if a corporation, for itself and its officers and directors.

NM I agree, as authorized representative, that, for the right and privilege of utilizing the streets and roadways of the City of Daytona Beach Shores, Florida, and to compensate the City for the burden of monitoring and regulating the above business, the undersigned applicant agrees to abide by all applicable Federal, State, County and City laws, codes, ordinances, rules and regulations.

NM I agree, as authorized representative, the franchisee and its surety indemnify and save harmless the City, all its officers, officials, representatives, agents and employees from and against any and all claims, liability and damages arising, in any way, from or based on the violation of any such laws, codes, ordinances, rules and regulations and any orders or other decrees, whether by the franchisee, the franchisee's employees, agents or subcontractors as to any claims, liability, or damages which are based, in any way whatsoever, on the franchisee's conduct, misconduct or omissions.

N. McDonald

Signature of Applicant

V. Pres / sec

Type of Authority for Business Named Above (E.g. Officer, Trustee)

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 19 day of December, 2023, by Natasha McDonald (Name of Person) as V. president / sec. The signer is personally known ☒ or has produced the following identification _____.

[Signature]
Signature of Notary Public



RIVER LEISSLER
Notary Public
State of Florida
Comm# HH415423
Expires 6/27/2027

☒ Documentation reviewed as complete by the Community Services Director:

Stewart Cruz on 12-26-23
Date

☐ Approved for City Commission Agenda Inclusion by the City Manager:

_____ on _____
Kurt Swartzlander Date

Action Taken by City Commission on _____ - Approved Denied Continued
Date



CITY COMMISSION AGENDA MEMORANDUM JANUARY 9, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission
FROM: Mike Fowler, Public Safety Director
PREPARED BY: Mike Fowler, Public Safety Director
SUBJECT: IPTM Pedestrian Safety Grant

SYNOPSIS:

Acceptance of a contract between City and the Institute of Police Technology and Management for \$5,000 in grant monies to conduct high visibility enforcement and education at pedestrian crosswalks.

FISCAL IMPACT STATEMENT:

BACKGROUND:

The request is for approval of a contractual services agreement between IPTM and the City in the amount of \$5,000.00. Under the contract, the Department of Public Safety will conduct overtime, high visibility education and enforcement operations.

Approved locations for operations are determined by IPTM based upon FDOT analysis of crashes from 07/01/2017 to 06/30/2022 and are as follows:

Monday, Tuesday, Sunday from 1300 hour to 2100 hours on A1A between Beachcomber Street and Milton Road.

LEGAL REVIEW:

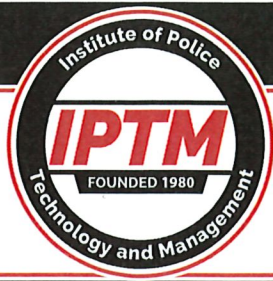
RECOMMENDATION:

Staff recommends approval

SUGGESTED MOTION:

I move we approve the consent item as presented.

ATTACHMENT: 1. IPTM Pedestrian Grant 2024



Institute of Police Technology and Management

University of North Florida
12000 Alumni Drive | Jacksonville, Florida 32224
Phone: (904) 620-4786 | Fax: (904) 620-2453
www.iptm.org

July 31, 2023

Ms. Maura Andrews
Traffic Safety Program Manager
Florida Department of Transportation
605 Suwannee Street, MS 53
Tallahassee, Florida 32399

RE: Pedestrian and Bicycle Safety High Visibility Enforcement and Support Program
Project Number: 433144-1-8404
Contract Number: G2M61

Dear Ms. Andrews,

We are requesting subcontract approval under the aforementioned subgrant agreement. The request is for approval of a contractual services agreement between IPTM and City of Daytona Beach Shores in the amount of \$5,000.00. Under the contract, Daytona Beach Shores Public Safety will conduct overtime high visibility education and enforcement operations through May 10, 2024.

I appreciate your consideration of this request.

Sincerely,

A handwritten signature in purple ink, appearing to read "Angel Williams", is written over a light blue horizontal line.

Angel Williams
Coordinator

Attachment

Letter of Agreement and Contract

In this contract between the City of Daytona Beach Shores ("Vendor") and University of North Florida Training and Services Institute, Inc., d/b/a Institute of Police Technology and Management ("IPTM"), a direct support organization of the University of North Florida ("University"), the Vendor shall perform the services as outlined in the scope of services (Exhibits A & B). The contract period will begin upon execution and will end on May 10, 2024.

Total contract amount will not exceed \$5,000.00

The parties to this contract shall be bound by all applicable state and federal requirements as outlined in Florida Department of Transportation (FDOT) Project # 433144-1-8404, Contract # G2M61. All services must be completed by May 10, 2024. The final invoice must be received by June 7, 2024 or payment will be forfeited.

It is expressly understood that the Vendor is an independent contractor, and not an agent of the FDOT or the University of North Florida. The FDOT and the University's ("State Agencies" or individually "State Agency") respective total liability in negligence or indemnity for acts of its employees or officers shall not exceed the limits of their waiver of sovereign immunity provided under Section 768.28, Florida Statutes. The FDOT, the University, and the Vendor shall each be responsible for its own attorney fees in the event of a dispute.

To the fullest extent permitted by law, the vendor shall indemnify and hold harmless IPTM and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and IPTM's sovereign immunity.

Vendor is a subdivision, as defined in Section 768.28, Florida Statutes, and Vendor agrees to be fully responsible only to the extent provided by Section 768.28, Florida Statutes, for the negligent or wrongful acts or omission of any employee of the Vendor while the employee is acting within the course and scope of the employee's employment, and for any damages proximately caused by said acts or omissions or torts.

Nothing herein shall be construed as consent by a State Agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this contract. No State Agency or subdivision indemnifies any other party or person beyond the extent permitted under the law, no matter what the circumstances. Nothing herein shall be construed as a waiver by the FDOT, the University, and the Vendor of any rights or limits to liability existing under Section 768.28, Florida Statutes.

In accordance with the contract, the Vendor is authorized to perform the tasks detailed in the scope of services (Exhibits A & B) and is fully responsible for satisfactory completion of all services. Services performed prior to receiving an executed contract from the University will not be eligible for reimbursement. This contract does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, Florida Statutes.

This is a cost reimbursable contract. To be eligible for reimbursement, all costs must be allowable pursuant to state and federal expenditure laws, rules and regulations and must be essential to the successful completion of the tasks identified in this contract for services.

If a cost benefits more than one project, a determination must be made and documentation provided to support that the cost is distributed in a reasonable and consistent manner across all benefiting projects.

CANCELLATION: This contract may be unilaterally cancelled by FDOT or the University for refusal by the Vendor to allow public access to all documents, papers, letters, or other material made or received by the Vendor in conjunction with this contract, unless Florida law provides that the records are confidential and/or exempt from the disclosure requirements of section 24(1) of Article 1 of the state constitution and section 119.07(1), Florida Statutes.

EXHIBIT "A"

**SCOPE OF SERVICES
PEDESTRIAN AND BICYCLE SAFETY
HIGH VISIBILITY EDUCATION AND ENFORCEMENT CAMPAIGN**

I. OBJECTIVE:

The Florida Department of Transportation ("FDOT"), through a subgrant with University of North Florida ("University"), will utilize law enforcement support to reinforce safe pedestrian, bicyclist, and driver behaviors in priority counties in Florida. The goal of this effort is to reduce traffic crashes resulting in serious and fatal injuries to pedestrians and bicyclists using high visibility education and enforcement details.

II. PURPOSE:

In 2021, 3,741 people lost their lives in traffic crashes on Florida's roadways. More than 22% of them were pedestrians (835) and more than 5% were bicyclists (197).

The **Purpose** of this funding opportunity is to develop and implement effective community level High Visibility education and enforcement details in areas with the highest representation of traffic crashes resulting in serious and fatal injuries to pedestrians and bicyclists.

The project **Goal** is to mitigate crashes by increasing awareness of and compliance with traffic laws that protect the safety of pedestrians and bicyclists on Florida's roads.

Pedestrians and bicyclists are more vulnerable than all other road users. Traffic crashes involving pedestrians and bicyclists are more likely to result in fatal or serious injuries than any other types of traffic crashes.

Speed, impairment, and distractions contribute to unsafe conditions for pedestrians and bicyclists and may be included in enforcement operations where there is data to support the need for these interventions to improve the safety of pedestrians and bicyclists.

Pedestrian decoys may only be included in enforcement operations to improve driver yield rates at mid-block crossing locations to improve the safety of pedestrians and bicyclists.

This campaign is a component of Florida's Bicycle/Pedestrian Focused Initiative and is implemented by the Institute of Police Technology and Management (IPTM) under the direction of the Florida Department of Transportation (FDOT). This campaign supports the goals established in Florida's Pedestrian and Bicycle Strategic Safety Plan. High Visibility Enforcement activities are being implemented to mitigate crashes by educating pedestrians, bicyclists, and motorists on traffic laws pertaining to pedestrian and bicycle safety and increasing compliance with those laws.

III. IPTM RESPONSIBILITIES:

IPTM will provide the required training/training materials, a copy of Florida's Pedestrian and Bicycle Strategic Safety Plan, and educational materials to the Vendor for distribution during enforcement operations upon contract execution. Additional educational materials, bicycle lights, and electronic media may be requested by the Vendor but are subject to availability. IPTM reserves the right to review and audit the Vendor's compliance with the terms of this Letter of Agreement and Contract. IPTM also reserves the right to reduce the amount of funding allocated under this Letter of Agreement and Contract when it is determined that the Vendor will be unable to properly utilize the full funding amount as outlined herein.

IV. VENDOR SERVICES AND RESPONSIBILITIES:

Vendor will provide high visibility education and enforcement of all road users, including pedestrians, bicyclists, and motorists, to change behaviors and improve the safety of pedestrians and bicyclists. Vendor will conduct on-street education and enforcement details at pre-approved locations within pre-approved times and distribute educational materials with each contact. Education is the preferred method of behavior correction. Warnings and/or citations to pedestrians, bicyclists, and motorists will be guided by

the Vendor's policies and procedures and must comply with Florida law. These operations are designed to reach more than just the individuals who are stopped or contacted, they should also be highly visible to anyone driving, walking, or biking in the area in a way that associates the enforcement activity with the safety awareness campaign. The Vendor shall record all detail activity that documents the education and enforcement outputs for each detail conducted during the contract period using the provided online platform.

To be reimbursable, activities conducted by the Vendor must meet the requirements listed in this Letter of Agreement and Contract to include the following:

- Operations must begin within 30 days of the contract execution date. Exceptions require the approval of IPTM.
- Only overtime hours for sworn law enforcement officers are eligible for reimbursement (non-sworn civilian personnel are not eligible).
- Operations must be highly visible to anyone driving, walking, or biking in the area. It is strongly suggested that operations include a combination of high visibility elements with a coordinated media awareness campaign similar to those used in sobriety checkpoints or other enforcement mobilizations.
- Funds may not be used to supplant the Vendor's enforcement and educational efforts funded by other local, state, or federal sources. Duplicated efforts are not eligible for reimbursement.
- Vendor will not be reimbursed for education and enforcement details that take place at locations outside of those pre-approved by the FDOT and outlined in Exhibit C of this agreement.
- Vendor will not be reimbursed for education and enforcement details that take place outside of the day(s) and times of day pre-approved by the FDOT and outlined in Exhibit C of this agreement (each detail location may have different pre-approved days and times of day).

Minimum Level of Service

Vendor shall conduct highly visible education and enforcement operations at each of the identified locations outlined in Exhibit C of this agreement, prioritizing efforts towards higher ranked (Tier 1) locations.

☒ Only Tier 1 locations shall be worked from contract execution through May 10, 2024

☐ Only Tier 2 locations shall be worked from contract execution through May 10, 2024

☐ Both Tier 1 and Tier 2 locations: Tier 1 locations shall be worked from contract execution through May 10, 2024. Tier 2 locations can be worked in addition to Tier 1 locations from February 1, 2024 through May 10, 2024

A minimum of two (2) media engagements should be conducted in conjunction with these high visibility enforcement operations during the contract period.

Vendor performance will be evaluated based on their prioritization of enforcement details to areas with the highest representation of traffic crashes resulting in serious and fatal injuries to pedestrians and bicyclists and on the visibility of the mobilization.

- Vendor will not be reimbursed for administrative time, travel time, meal breaks or other hours that are not for participation in the education and enforcement overtime details aimed at reducing traffic crashes resulting in serious or fatal injuries to pedestrians or bicyclists, or attendance at required training outside of the training requirement listed within this contractual service agreement.

- Each officer is limited to a maximum of eight (8) hours of reimbursable overtime in any single day (defined as 12:00 a.m. to 11:59 p.m.), unless there are extenuating circumstances at the end of a shift that causes the hours to exceed this limit. **Extenuating circumstances must be documented in the activity report.** There is no pay period limit.
- Officer training is mandatory. For their overtime hours to be reimbursable, officers working the education and enforcement details must first complete the required four-hour training course titled *"Pedestrian and Bicycle Law Enforcement: Laws, Procedures and Best Practices."* To remain eligible, officer "refresher training" is required for any officer who completed the four-hour training course titled *"Pedestrian and Bicycle Law Enforcement: Laws, Procedures and Best Practices"* **prior to June 30, 2022.** The refresher training class titled *"Pedestrian & Bicycle Safety: A Law Enforcement Review"* is not a substitute for the 4-hour classroom course for initial eligibility into this program.
- Vendor may be reimbursed for a limited number of sworn law enforcement officers to attend the required four-hour training course titled *"Pedestrian and Bicycle Law Enforcement: Laws, Procedures and Best Practices"* or the two (2) hour online refresher training course titled *"Pedestrian & Bicycle Safety: A Law Enforcement Review"*. For their overtime hours to be reimbursable, attendance at the training must be within the contract period and must be on overtime status. Although every sworn law enforcement officer may attend the training, overtime reimbursement is limited to those officers who will actually take part in education and enforcement details.
- Public awareness is a key element of the high visibility enforcement model. The Vendor is strongly encouraged to distribute a minimum of two (2) media releases during the contract period. The first media release announcing that operations are beginning should be distributed a minimum of seven (7) days in advance of the first education/enforcement detail. The second media release should include a reminder that details are ongoing. This second media release should be distributed approximately halfway through the contract period. Additional media engagement is also encouraged throughout the contract period. Media releases may include social or digital media but must also be distributed through local media outlets. Proof of media engagement should be provided within 30 days of the press release or news report.
- The Vendor shall distribute the provided safety educational materials during all education and enforcement details. Materials will be provided to Vendor free of charge for this purpose.
- Vendor may elect to participate in bicycle light distribution to improve nighttime visibility and compliance with F.S. 316.2065(7). A Bicycle Light Distribution Assurance Form provided by IPTM is required for each bicycle light set that is distributed. The required documentation must be signed by the officer and submitted to IPTM or through the provided online platform along with the detail report for the period in which the lights were distributed.
- Invoice submissions must document that each officer was on overtime status while working the education and enforcement details in order to be eligible for reimbursement.

HIGH VISIBILITY ENFORCEMENT (HVE)

All law enforcement agencies shall conduct High Visibility Enforcement while conducting enforcement under this contractual service agreement.

High Visibility Enforcement is defined as:

- Intense:** Enforcement activities are over and above what normally takes place.
- Frequent:** Enforcement occurs often enough to create general deterrence.
- Visible:** A majority of the public sees or hears about the enforcement.

Strategic: Enforcement targets high-risk locations during high-risk times.

APPROVED PERSONNEL LIST

Prior to commencing the services outlined under this contract, Vendor must submit a list of personnel authorized to participate in overtime details under this agreement through the provided online platform. The name and fully loaded hourly overtime rates to be used for each officer must be submitted. The overtime rates may include the costs of hourly overtime plus associated fringe benefits paid upon the overtime. Only hours from officers listed shown on the authorized personnel list are eligible for reimbursement under this agreement. The authorized personnel list shall be updated as needed to add officers and update overtime pay rates.

METHOD OF COMPENSATION/PAYMENT SCHEDULE

Invoices must be submitted at least monthly (every 30 days), beginning within 60 days of the contract execution date. Invoices must contain the following:

- **Invoice** to include summary of hours charged and total due.
- **Payroll documentation:** Vendor must submit payroll documentation to accompany each invoice. This payroll documentation should clearly indicate that the detail hours worked under this contract were on overtime status along with the overtime rates that were paid. As this is a cost-reimbursable contract, IPTM can only reimburse the Vendor for an amount up to the total costs incurred for the overtime worked; therefore, Vendor must include either a pay stub or payroll ledger documenting payment to each officer for which reimbursement is requested. It is the responsibility of the Vendor to redact any personally identifiable information such as Social Security numbers prior to submission.

The overtime pay rate for personnel shall be based on the actual cost per employee in accordance with the agency's payroll policy. Each agency shall comply with Fair Labor Standards Act (FLSA) requirements and thresholds for overtime accrual and payment and its own policies and procedures, insofar as those policies apply uniformly to both federally financed and other activities of the agency, as required by 2 CFR 200.403(c). Additional hours may be called overtime, call-out, off duty, extra, additional, etc.

As part of the "fully burdened" overtime costs, the agency can be reimbursed for the additional benefit costs paid on the overtime worked. These benefit costs must be additional costs incurred specifically as a result of the overtime being reimbursed. These benefits may include associated portions of FICA (Social Security and Medicare), Worker's Compensation, Retirement benefits, and fixed shift differential costs. Prorated portions of leave accrual, health/life insurance, uniform allowance, vehicle usage, salary incentive, and other standard benefits cannot be reimbursed as they are not additional costs incurred specifically as a result of the overtime worked.

- **Detail Activity:** Vendor shall record detail activity that documents the education and enforcement outputs for each detail conducted through the provided online platform. The activity will document that each detail conducted meets the minimum level of service as outlined in this agreement and show the officers assigned, date, days and/or times, location, contacts made, number of materials distributed, and the numbers of educational contacts, warnings and citations issued to motorists, pedestrians, and bicyclists for each statute. Detail Activity submissions shall be consistent with the corresponding invoices and payroll documentation.

All invoices must be submitted through the provided online platform. In case the provided online platform is unavailable, invoice documentation can be sent electronically to ped.bike.safety@iptm.org.

All requests for reimbursement shall be signed by an Authorized Representative of the Vendor, or their delegate.

The University has 40-days to review and process invoices for services. This process begins on the date the Vendor invoice is received, inspected, and approved. Invoices may be returned if not completed properly. If a payment is not available within 40 days from the University approval, a separate interest penalty at a rate as established pursuant to Section 55.03(1), F.S., will be due and payable, in addition to the invoice amount, to the Vendor. Interest penalties of less than one (1) dollar will not be enforced unless the Vendor requests payment. Invoices that have to be returned to a Vendor because of Vendor preparation errors will result in a delay in the payment and is not subject to the interest penalty. The Vendor payment requirements do not start until a properly completed financial reimbursement request is provided to the University.

FINANCIAL CONSEQUENCES

Payment shall be made only after receipt and approval of services provided. If the University determines that the performance of the Vendor does not comply with the contract requirements, the University shall notify the Vendor of the deficiency to be corrected, and the correction shall be made within a timeframe to be specified by the University. If the deficiency is subsequently resolved, the University agrees to pay the invoice(s) for the unpaid amount(s) during the next billing period. If the Vendor is unable to resolve the deficiency, the funds shall be forfeited at the end of this contractual service agreement.

PRE-APPROVED HVE LOCATIONS

Education and enforcement overtime details are only authorized at locations (specific intersections, corridors, and/or regions) that have been pre-approved by the FDOT. Vendor may not be reimbursed for efforts conducted at locations that have not been pre-approved, that take place prior to the date of the approval of this agreement, or that do not comply with the minimum level of service as outlined in this agreement.

Each pre-approved location will have clearly defined boundaries; day(s) and times of day in which the overtime details can be worked and will be outlined in Exhibit C.

REQUESTS FOR ADDITIONAL FUNDING

The Vendor may request an increase to the total funding amount of this contract during the contract period. If the funding is available, the increased funding request may be considered if the Vendor has:

- satisfied all of the provision listed within this contract
- submitted timely invoices and record of detail activity submissions
- conducted HVE overtime detail efforts in a manner that supports the stated goal
- expended 70% or more of the current contract funding amount
- pedestrian and bicyclist crash circumstances within the Vendor's jurisdiction support the increased funding amount

Increased funding will be based upon availability and must be approved by the FDOT.

Increased funding will be accomplished through an amendment to this contract which must be signed by the FDOT, Vendor, and IPTM.

Requests for increased funding must be submitted to IPTM and received on or before February 29, 2024.

NON-DISCRIMINATION AND ETHICAL STANDARDS

No person shall, on the ground of race, color, religion, sex, handicap, or national origin, be subjected to discrimination under any program or activity supported by this contract. The agency agrees to comply with the Florida Civil Rights Act (F.S. 760)

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0760/0760.html

All officers participating in High Visibility Enforcement activities are required to comply with the Law Enforcement Officer Ethical Standards of Conduct as established by the Florida Department of Law Enforcement. <https://www.fdle.state.fl.us/Content/CJST/Menu/Officer-Requirements-Main-Page/LE-Ethical-Standards-of-Conduct.aspx>

CORE ACTIVITY PERFORMANCE MEASURES / MINIMUM LEVEL OF SERVICE TO BE PERFORMED AND CRITERIA FOR EVALUATING SUCCESSFUL COMPLETION.

Each law enforcement agency is encouraged to complete all of the tasks as outlined within this contract. All agencies are required to complete a minimum of (80%) eighty percent of contracted efforts within the contract period to be eligible for "agency of the year award" consideration. Each successive fiscal year, agencies will be prioritized for funding based on percentage of performance expectations that were met.

CONSEQUENCES FOR NON-PERFORMANCE

If the Vendor is unable to properly utilize the full funding amount as outlined herein, the amount of funding for subsequent periods may be reduced. In the event that the required services are in dispute, the invoice may be pro-rated, reduced, or payment withheld until adequate documentation is provided to support the completion of such services and the dispute is resolved. If requirements are not met, the invoice will be pro-rated and payment will only be made for services that were completed as outlined in this agreement. Failure to submit invoices, detail activity reports, or other deliverables as outlined in this contract may result in termination of the agreement.

EXHIBIT "B"

EFFORT SUMMARY

FLORIDA'S PEDESTRIAN AND BICYCLE FOCUSED INITIATIVE HIGH VISIBILITY ENFORCEMENT CAMPAIGN

QUANTIFIABLE, MEASURABLE, AND VERIFIABLE DELIVERABLES

- A minimum of two (2) media engagements should be conducted in conjunction with these high visibility enforcement operations during the contract period.
- Detail Activity Reports shall be submitted for each education and enforcement detail worked.
- Bicycle Light Distribution Assurance Forms shall be submitted for each bicycle light kit distributed.
- Invoices shall be submitted for each month or payroll period in which overtime details were performed beginning the month following contract execution.

PERFORMANCE MEASURES

Proof of performance documentation shall be submitted. This includes, but is not limited to, the following:

- Detail Activity Submissions
- Proof of media engagements
- Proof of overtime hours worked

BUDGET/COST ANALYSIS

- The name and fully loaded hourly overtime rates to be used for each officer must be submitted.
- The overtime rates may include the costs of hourly overtime plus associated fringe benefits paid upon the overtime.
- Only hours from officers listed and shown on the authorized personnel list are eligible for reimbursement under this agreement.
- Only overtime hours for sworn law enforcement officers are eligible for reimbursement (non-sworn civilian personnel are not eligible).
- Each officer is limited to a maximum of eight (8) hours of reimbursable overtime in any single day (defined as 12:00 a.m. to 11:59 p.m.).
- Payroll documentation should clearly indicate that the detail hours worked under this contract were on overtime status along with the overtime rates that were paid.
- ☒ Only Tier 1 locations shall be worked from contract execution through May 10, 2024.
☐ Only Tier 2 locations shall be worked from contract execution through May 10, 2024.
☐ Both Tier 1 and Tier 2 locations: Tier 1 locations shall be worked from contract execution through May 10, 2024. Tier 2 locations can be worked in addition to Tier 1 locations from February 1, 2024 through May 10, 2024.
- Payment shall be made only after receipt and approval of services provided.

Total contract amount not to exceed: \$5,000.00

EXHIBIT "C"

Locations for Daytona Beach Shores Public Safety
Florida’s Pedestrian and Bicycle Focused Initiative
High Visibility Enforcement Campaign

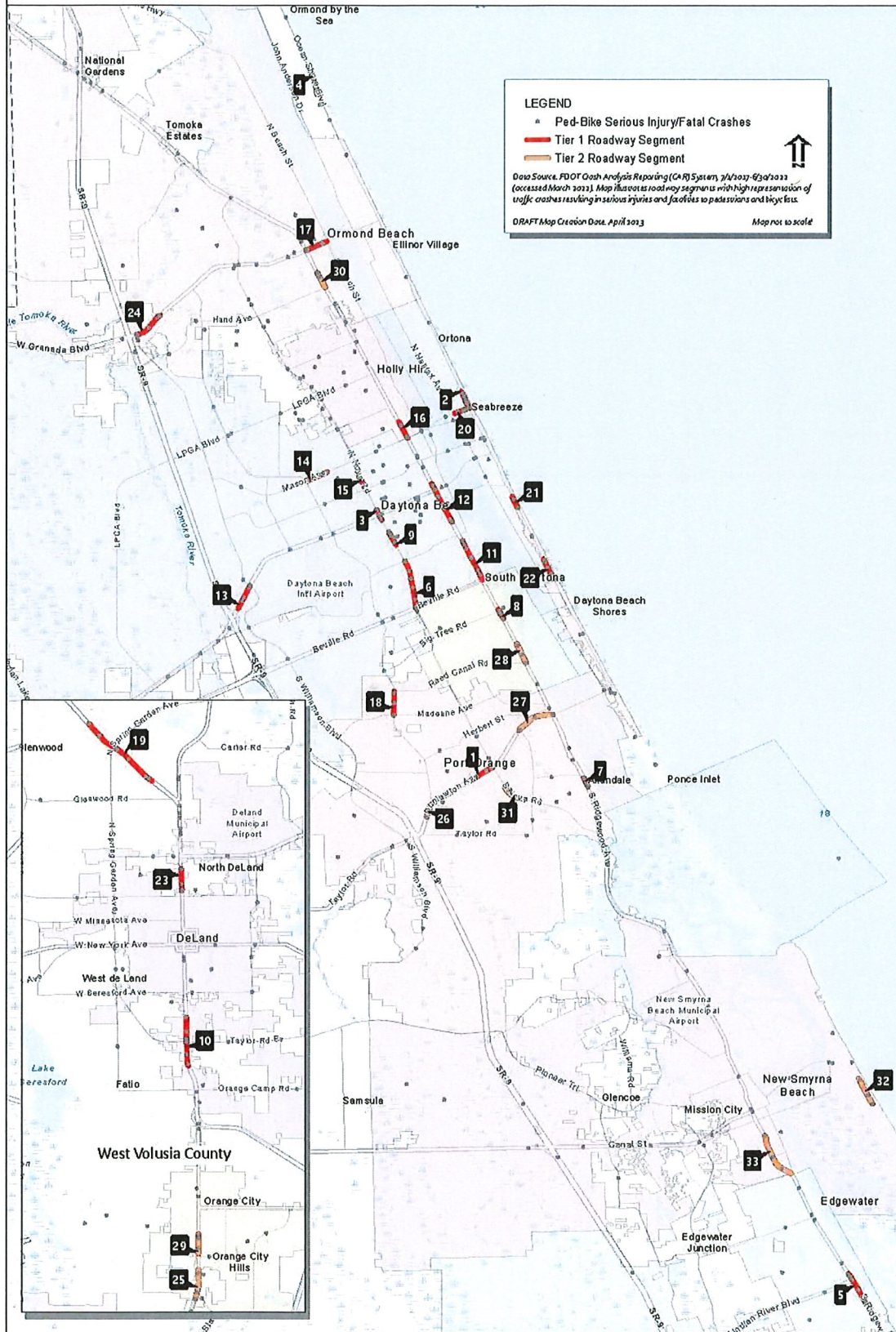
2023-2024 HIGH VISIBILITY ENFORCEMENT PROGRAM - VOLUSIA COUNTY PEDESTRIAN/BICYCLE HIGH
CRASH SEGMENTS

Rank	Roadway Name	From	To	Tier	Time Range		Day of the Week
					From	To	
22	S Atlantic Avenue	Beachcomber Street	Milton Road	1	1300	2100	Monday, Tuesday, Sunday

Data Source: Crash Analysis Reporting System 7/1/2017-6/30/2022 (downloaded March 2023). Table lists roadway segments with high representation of traffic crashes resulting in serious injuries and fatalities to pedestrians and bicyclists.

EXHIBIT "C"

2023-2024 HIGH VISIBILITY ENFORCEMENT PROGRAM VOLUSIA COUNTY PEDESTRIAN/BICYCLE HIGH CRASH SEGMENTS



Letter of Agreement and Contract

Execution of Agreement. This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

**University of North Florida Training and Services Institute, Inc.
d/b/a Institute of Police Technology and Management**

Vince Smyth, Associate Vice President

Date

Cameron Pucci, Director

Date

VENDOR ACKNOWLEDGEMENT: By signing below, I certify that I have read the entire document, agree to abide by the pricing and all terms and conditions of this Letter of Agreement and Contract, and that I am authorized to sign for the Vendor.

Vendor Name: City of Daytona Beach Shores

Address: 3050 S. Atlantic Ave, Daytona Beach Shores, FL 32118

Vendor's Authorized Agent Signature

Date

Printed Name

Title

**CONTRACTUAL SERVICES AGREEMENT
REVIEWED AND APPROVED**

DocuSigned by:

Chris Craig

07/31/23

B6ZDFADA507C4E4

TRAFFIC SAFETY ADMINISTRATOR DATE

Exhibit "D"

FY2023 - Subcontract Agreement Required Federal Clauses, Per Part V

- i. The parties to this subcontract shall be bound by all applicable sections of Part V: Acceptance and Agreement of Project # 433144-1-8404, Contract # G2M61. A final invoice must be received by June 7, 2024 or payment will be forfeited.
- ii. **Buy American Act.** The Buy America Act prohibits the use of Federal highway safety grant funds to purchase any manufactured product or software/information technology systems whose unit purchase price is \$5,000 or more, including motor vehicles, that is not produced in the United States. NHTSA may waive those requirements if (1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.
- iii. **Certification Regarding Federal Lobbying.** The subcontractor certifies, to the best of his or her knowledge and belief, that:
 - 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- iv. **Cooperation with the Inspector General.** It is the duty of every subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this subgrant agreement. Chapter 20.055(5), F.S.
- v. **DBE Assurance.** The subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The consultant or contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of USDOT-assisted contracts. Failure by the consultant or contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Subrecipient or the Department deems appropriate.
- vi. **E-Verify.** Any subcontractors performing work or providing services pursuant to the subgrant agreement are required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

- vii. **Nondiscrimination.** During the performance of this subcontract, the Subcontractor agrees:
1. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time
 2. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein
 3. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the FDOT State Safety Office, USDOT or NHTSA
 4. That, in event a Subcontractor fails to comply with any nondiscrimination provisions in this subgrant, the Subrecipient will have the right to impose such subgrant sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the Subcontractor under the contract/agreement until the Subcontractor complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part.
- viii. **Clean Air Act and Federal Water Pollution Control Act.** Subcontracts for amounts in excess of \$150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- ix. **Integrity Certification.** The Subcontractor certifies that neither it nor its contractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency. This certification is a material representation of fact upon which the Department is relying in entering this Agreement. If it is later determined that the Subcontractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. The Subcontractor shall provide to the Department immediate written notice if at any time the Subcontractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- x. **Contract Work Hours and Safety Standards Act.** All subcontracts in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- xi. **Indemnification and Insurance.** To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Subrecipient and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Subrecipient's sovereign immunity.

- xii. **Policy on Banning Text Messaging While Driving Act.** In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, subrecipients are encouraged to:

Adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official business or when performing any work on behalf of the subrecipient agency and/or the Government.

Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting and driving.

Insert the substance of this section, including this sentence, in all sub-agreement/subcontracts funded with the subaward provided under this Agreement that are \$15,000 or more.

- xiii. **Human Trafficking.** The Subcontractor agrees that it and its employees that perform any work on the subcontract shall not, during the term of this Agreement, engage in trafficking in persons, procure a commercial sex act, or use forced labor in the performance of work on the subcontract.

- xiv. **Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.** The Subcontractor agrees to take the following affirmative steps to assure that minority businesses, women's business enterprise, and labor surplus are used when possible:

1. Place qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

- xv. **Termination for Convenience.** In accordance with Appendix II to 2 CFR Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, either Party may terminate this Agreement for convenience upon thirty (30) days' advance written notice to the other Party. Termination of this Agreement, as such, will not affect payment for services satisfactorily furnished prior to the termination.



CITY COMMISSION AGENDA MEMORANDUM JANUARY 9, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission
FROM: Becky Vose, City Attorney
PREPARED BY: Kurt Swartzlander, City Manager
SUBJECT: Procedure for Appointing Replacement Commissioners

SYNOPSIS:

After the resignations of two city commissioners, the city commission must appoint two new members within thirty days of their resignation or hold a special election. Under this agenda item, the commission should vote on a procedure to appoint new commissioners as discussed during the earlier workshop under the guidance of the city attorney.

FISCAL IMPACT STATEMENT:

No additional expense or revenue is expected from this action.

BACKGROUND:

Commissioners Lindauer and Bryan resigned effective December 28th, 2023.

LEGAL REVIEW:

RECOMMENDATION:

Adopt procedure as determined by the city commission.

SUGGESTED MOTION:

Motion to approve procedure as determined by the city commission

ATTACHMENT: 1. Opinion - Filling of city commissioner open seat - 2024 - 1-3-24 updated

M E M O R A N D U M

TO: Kurt Swartzlander, City Manager, City of Daytona Beach Shores
COPIES: Mayor and City Commissioners
FROM: Gretchen R. H. ("Becky") Vose, Esq., City Attorney
DATE: January 2, 2024
SUBJECT: Process for Filling Vacant Positions of City Commissioner

Two of the City Commissioners of Daytona Beach Shores recently submitted their resignations and you have asked me to analyze the proper process for the filling of the vacant City Commission seats. One of the vacant seats (Seat 2, that formerly was held by Commissioner Bryan) has a remaining term of approximately one year, while the other vacant seat (Seat 3, that formerly was held by Commissioner Lindauer) has a remaining term of approximately 3 years. My analysis follows.

Charter Provision

Section 2.05 of the Daytona Beach Shores Charter states:

Sec. 2.05. Filling of vacancies.

The unexpired term of a vacated seat of a Commissioner or the Mayor shall be filled at the next Municipal General Election to be held by the Volusia County Supervisor of Elections when held in odd years or the next State General Election to be held in November of even years.

For the interim period until the General Election at which a vacancy in the office of a Commissioner or a Mayor, vacancies in the office of Commissioner or a Mayor shall be filled within thirty (30) days by the appointment of a successor by the majority vote of the remaining members of the City Commission. If the majority of the remaining members of the City Commission fail to fill the vacancy through appointment within the thirty-day period, a special election to fill the vacancy shall be called and held in a manner coordinated by the City Clerk with the Supervisor of Election and adopted by resolution of the City Commission.

Should the City Commission fail to provide for an election within the time required by this Charter, such election may be ordered by any court of competent jurisdiction.

The qualifying for candidates for a special election to fill a vacancy shall be the same as provided for regular elections in this Charter.

Any successor who fills a vacancy, whether by appointment or election, must have and possess all of the qualifications established by this Charter for the office being filled.

Although the two vacant City Commission positions have unexpired terms of different lengths, the persons appointed to fill the two positions would each only serve the same period of time – until the swearing in of newly elected City Commissioners following “the next State General Election to be held in November [2024].” At the November 2024 State General Election, a city election would be held to fill both of those seats – one for a full four year term (for the seat vacated by Commissioner Bryan) and the other for a two year term (the remaining term of former Commissioner Lindauer). Of course, any person who is appointed to fill either of the now vacant seats, could run for either of the two vacant seats to be filled in the November, 2024 election.

“Qualifications” for persons appointed

Section 2.02 of the Daytona Beach Shores Charter establishes the following minimum qualifications to hold the office of City Commissioner in the City of Daytona Beach Shores:

- 1) registered elector in the City
- 2) six (6) months residency in the City

Section 6.01 of the Daytona Beach Shores Code of Ordinances provides:

Sec. 6.01. – State election law applicable.

All general laws of Florida relating to elections and the registration of persons qualified to vote therein which are not in conflict with this charter shall be the same for the City of Daytona Beach Shores, [and] are hereby adopted as parts hereof.

Therefore, if an issue is not expressly provided for in the Charter or Ordinances of the City concerning elections including, but not limited to qualifications for office, the applicable state law is controlling. The Florida Election Code is found in Chapter 97, Florida Statutes. Although the regulations of municipal elections is referred to as subject to Section 100.3605, that statutory section refers back to Chapter 97 regulations.

Since a person must be a “registered elector” according to Section 2.02 of the City of Daytona Beach Shores Charter and Section 6.01 of its Code of Ordinances adopts by reference Chapter 97, Florida Statutes, voter qualifications included in Section 97.041 would apply to persons seeking to hold office as a City Commissioner in the City of Daytona Beach Shores. Section 97.041 states:

Section 97.041 Qualifications to register or vote.—

- (1)(a) A person may become a registered voter only if that person:
 1. Is at least 18 years of age;
 2. Is a citizen of the United States;

3. Is a legal resident of the State of Florida;
4. Is a legal resident of the county in which that person seeks to be registered;
and

5. Registers pursuant to the Florida Election Code.

(b) A person who is otherwise qualified may preregister on or after that person's 16th birthday and may vote in any election occurring on or after that person's 18th birthday.

(2) The following persons, who might be otherwise qualified, are not entitled to register or vote:

(a) A person who has been adjudicated mentally incapacitated with respect to voting in this or any other state and who has not had his or her right to vote restored pursuant to law.

(b) A person who has been convicted of any felony by any court of record and who has not had his or her right to vote restored pursuant to law.

(3) A person who is not registered may not vote.

Furthermore, Section 97.051 requires that a person be willing to take an oath after registering to vote. Section 97.051 states: "A person registering to vote must subscribe to the following oath: "I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true."

In summary, the **minimum** criteria for a person to hold office as a City Commissioner in the City of Daytona Beach Shores is that the person:

A . Is registered as a voter of the City according to the Volusia County Supervisor of Elections and therefore:

1. Is at least 18 years of age;
2. Is a citizen of the United States;
3. Is a legal resident of the State of Florida;
4. Is a legal resident of the county in which that person seeks to be registered; and
5. Registers pursuant to the Florida Election Code.
6. Is not a person who has been adjudicated mentally incapacitated with respect to voting in this or any other state and who has not had his or her right to vote restored pursuant to law.
7. Is not a person who has been convicted of any felony by any court of record and who has not had his or her right to vote restored pursuant to law; and

B. Has been a resident of the City of Daytona Beach Shores for six (6) months.

"Vacancies ... shall be filled ... by the appointment of a successor by the majority vote of the remaining members of the City Commission."

The City Commission has scheduled a workshop to be held beginning at 5:00 P.M. on Tuesday, January 9, 2024, to consider the process of appointing two new City Commissioners to fill the existing vacancies. Because the City is required by the Charter to appoint the new City

Commissioners within thirty (30) days after the vacancy occurs, time is of the essence. Special elections can be very expensive. Particularly since there are only three remaining City Commissioners, all City Commissioners must be present for a meeting to be held and a vote taken. Due to the potential that one or more of the remaining City Commissioners might be unable to attend a future meeting within the allotted thirty (30) days (due to illness or other reason), I recommend that, if possible, the appointments of the two new City Commissioners take place at the regular City Commission meeting scheduled for 6:00 P.M. on January 9, 2024.

Under Florida law there are no required processes that must be followed (unless such processes are mandated by Charter or code provision) for the appointment to fill a vacant City Commission position. Any person considered for appointment though must be “qualified” based on the factors set forth in detail above.

It is recommended that the remaining City Commissioners be prepared on January 9, 2024, to nominate one or more possible appointees, and confirm with the Supervisor of Elections the qualifications to serve of any potential appointee. Of course, it would also be important to ensure that the possible appointee is willing to serve in the position prior to any nomination. Because many people may not be aware of the newly imposed requirement to file Commission on Ethics Form 6 for City Commissioners, it would be appropriate to point out that fact to anyone approached as a possible appointee. They should also be told that their appointment would only be until the swearing in of newly elected City Commissioners at the end of 2024, but that they could run for reelection for any seat up for election at that time.

Assuming that the City Commission wishes to take action on January 9, 2024, to appoint two new City Commissioners to fill the existing vacancies, it is suggested that the “process” of filling the vacancies be discussed at the 5:00 P.M. workshop. No votes can be taken at a workshop, so it is suggested that only a discussion take place as to a process to be followed at that time. At the following regular meeting of the City Commission, (at 6:00 P.M. that same day) there will be two related items on the agenda – i) process to be followed for appointment to fill vacancies; and ii) consideration of the filling of vacancies for Seat 2 and for Seat 3.

Possible “Process” of Filling Vacancies

One process that could be considered would be to have each member of the City Commission given an opportunity to nominate some qualified person(s) and explain to the remaining Commissioners why they consider the nominee(s) to be appropriate to fill the vacancies.

If there are only two nominees, there could be a vote as to each (specifying which seat would be filled by each nominee), and assuming that each nominee receives at least two positive votes, the process would be completed. Of course, before any vote, public comment must be allowed.

If there are more than two nominees, then it is suggested that after public comment, the names of the nominees be written on sheets of paper by the Commissioners and each Commissioner rank the nominees by putting a 1 by their first choice, a 2 by their second choice, etc. The sheets of

paper would be signed by each Commissioner, and they would be handed to the City Manager and the City Clerk for tabulation.

The nominee with the lowest total score would be chosen to fill one of the two vacant seats, and the nominee with the second lowest score would be chosen to fill the other of the two vacant seats. If there were a tie for either position (lowest or second lowest score), then the process could be repeated to break the tie. If a tie cannot be broken by two more “ballots,” the tie could be broken by a coin flip.

After this process, there should be votes to “appoint” the two chosen nominees. Since public comment would have already been received on this subject, no further public comment would be required.

The above is certainly not the only method that could be used to appoint new City Commissioners to fill the two vacancies on the City Commission, and other methods could be discussed at the workshop scheduled for 5:00 P.M. next Tuesday.

In any event, whatever “process” is chosen for the appointment, the process should be articulated at the Regular City Commission and voted upon (after the taking of public comment on the process) to establish the process before it is implemented.

I recommend that the appropriate motion to appoint a commissioner be:

“I move to appoint _____ as City Commissioner to fill the vacant Seat __ [insert 2 or 3] for an approximate 10 month term ending on November 12, 2024.”

I have also been asked to opine on the application of the term limit provisions of Sec. 2.01 of the Daytona Beach Shores Charter to these 10 month terms, taking into account the time period for the terms for Seat 2 (a four year term to begin on November 12, 2024), and for Seat 3 (a two year term to begin on November 12, 2024). Sec. 2.01 of the Charter provides:

Sec. 2.01. Composition; term limits; mayor and city commission.

There shall be a city commission consisting of five (5) members, one of whom shall be a mayor, all of whom shall be elected at-large for a four (4)-year term. Unless otherwise provided, reference to the office of commissioner in this charter shall also apply to the office of mayor. No person shall be elected or appointed to office as a city commissioner for more than two (2) terms. This section applies to any commissioner including the mayor and a person shall not circumvent this rule through election or appointment to a different position. For purposes of this limitation, "term" is defined as service on the city commission for a period longer than one-half of a full term. All terms, including past and present terms, greater than one-half of a full term served by current and former city commission members shall count for the purposes of applying the term limit.

Assuming that there is no change to the above quoted Charter language, and there is no contrary court determination, it is my opinion that an approximate 10 month term to end November 12, 2024, would be considered a “term” that would be considered in determining whether a city commissioner had provided “service on the city commission for a period longer than one-half of a full term.” For that reason, if a City Commissioner were appointed to fill an approximate ten month term in either Seat 2 or 3, and subsequently ran for election for Seat 3 and served the 2 year term for Seat 3, that City Commissioner would be term-limited out after serving less than 7 years as a City Commissioner assuming they ran for re-election for any seat after the end of the 2 year Seat 3 term.

If you have any questions or concerns, please give me a call at your convenience.



CITY COMMISSION AGENDA MEMORANDUM JANUARY 9, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission
FROM: Kurt Swartzlander, City Manager
PREPARED BY: Kurt Swartzlander, City Manager
SUBJECT: Appointment of New Commissioners to fill seats 2 and 3

SYNOPSIS:

Following procedures for the selection of new commissioners to fill seats 2 and 3 following the resignations of previous commissioners. These new commissioners will serve until the next general election currently scheduled for the beginning of November 2024.

FISCAL IMPACT STATEMENT:

No additional revenue or expense is anticipated by this action.

BACKGROUND:

The city commission must fill the commission seats vacated by the resignation of commissioners Lindauer and Bryan.

LEGAL REVIEW:

RECOMMENDATION:

Appoint new commissioners to seats 2 and 3 at the discretion of the city commission.

SUGGESTED MOTION:

"I move to appoint _____ as City Commissioner to fill the vacant Seat 2 for an approximate 10-month term ending on November 12, 2024."

Followed by

"I move to appoint _____ as City Commissioner to fill the vacant Seat 3 for an approximate 10-month term ending on November 12, 2024."

ATTACHMENT: None



CITY COMMISSION AGENDA MEMORANDUM JANUARY 9, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Ordinance 2024-01: Requiring The Posting Of Addresses On The East side Of Properties Adjacent To The Beach

SYNOPSIS:

Ordinance 2024-01, formerly Ord. 2023-17, if adopted, will require the proper posting of building address numbers on the east side of properties adjacent to the Atlantic Ocean Beach, among other things. Posting address numbers is critical for public safety response time. Beachside addresses will assist emergency personnel (fire/paramedic/police) to determine emergency locations. Similarly, beachside addresses will help beach goers guide first responders to places of emergencies on the beach.

The ordinance also gives beachside property owners a 120-day compliance period, subsequent to the adoption of this ordinance. However, the dimensional requirements of the numerals only apply to new or replaced signage. Further, if a seawall is not available, the ordinance provides that the address numbers may be installed on a posted sign or fence, easily visible from the driving lanes of the beach.

NOTE: Per Sec. 166.041(4), Florida Statutes, the required Business Impact Estimate is attached.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

Staff Recommends approval of Ordinance 2024-01 as presented.

SUGGESTED MOTION:

Motion to approve Ordinance 2024-01 as presented.

- ATTACHMENT:**
1. Ord 2024-01 Building Addresses Along Atlantic Ocean Beach (003)
 2. Business Impact Estimate-Ord. 2024-01 Building Adresses along Oceanfront

ORDINANCE 2024-01

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO POSTING OF NUMBERS (ADDRESSES) ON PROPERTIES ADJACENT TO ATLANTIC OCEAN BEACH; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, AMENDING CHAPTER 5, ARTICLE V ENTITLED “BUILDING NUMERALS,” BY AMENDING SECTION 5-10 ENTITLED “NUMERALS,” TO PROVIDE FOR THE POSTING OF BUILDING NUMBERS (ADDRESSES) EAST OF THE BUILDING FOR PROPERTIES ADJACENT TO THE ATLANTIC OCEAN BEACH; 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 proper posting of building address numbers in the rear of properties adjacent to the Atlantic Ocean Beach is critical for public safety response; and

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

WHEREAS, the recitals to this Ordinance (whereas clauses) are adopted as the legislative findings and intent of the City Commission of the City of Daytona Beach Shores; and

WHEREAS, the City Commission of the City of Daytona Beach Shores finds this ordinance is in the best interest of its citizens, businesses and visitors; and

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

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

SECTION ONE. LEGISLATIVE FINDINGS AND INTENT.

(a). The City Commission of the City of Daytona Beach Shores hereby adopts the City staff report relating to this Ordinance as additional legislative findings which shall not be codified as a part of this Ordinance.

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

SECTION TWO: Section 5-10, *Land Development Code*, Chapter 5, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Building Numerals,” is amended to read as follows:

Sec. 5-10. – Posting of Address Numerals.

All buildings within city limits shall have their assigned building (address) numbers properly displayed, whether or not mail is delivered to such buildings or property. It shall be the duty of the owners and occupants of each building to post the assigned building number on the property in the following manner:

1. ~~Approved numerals shall be provided for all new and existing buildings within the city limits of the City of Daytona Beach Shores. The building (address) number shall be affixed to the front of the building in such a manner so as to be clearly visible and legible from the public or private way on which the building fronts. Additionally, this requirement shall apply to the rear of the building for properties adjacent to the Atlantic Ocean so that the address is clearly visible from the beach. The addressing for all buildings and properties fronting the Atlantic Ocean Beach shall be in place within 120 days of the effective date of this ordinance.~~

2. ~~Such numerals shall be plainly visible and legible from the street and/or roadway. All properties shall have numerals with Arabic font and numerals shall not be less than four inches in height for residential buildings and at least six inches in height for all other buildings and structures with a stroke width of not less than one-half inch. The requirement contained in this subsection shall only apply to the installation of new or replaced numerals.~~

3. ~~Numerals in the street side of buildings shall not be less than three (3) inches in height. Numerals required at the rear of properties located adjacent to the Atlantic Ocean Beach shall have Arabic numbers with a minimum of 12 inches in height and a stroke width of not less than one inch. The requirement contained in this subsection shall only apply to the installation of new or replaced numerals.~~

4. ~~Numerals on seawalls or beach front shall not be less than six (6) inches in height.~~

5. All numerals shall be of contrasting colors; with the immediate background color of the building or structure on which such numerals are affixed, so as to be visible to an oncoming emergency vehicle.
6. Where a building is more than fifty (50) feet from the street or numerals cannot be made clearly visible from the public or private way, numerals shall also be placed on a streetside mailbox or a posted sign, where a streetside mailbox is not available.
7. For properties adjacent to the Atlantic Ocean Beach, ~~Where~~ where a seawall is not available, numerals shall be plainly visible, affixed to a posted sign or fence, and easily visible from the driving lanes along the Atlantic Ocean Beach.
8. Numerals shall be installed or produced in a good workmanlike manner, maintained, and if they should become cracked, faded, or deteriorated, they shall be replaced by the owner of the property.
9. In plazas, or where similar conditions exist of several different businesses or dwellings sharing the same primary address number, each business or dwelling shall display its secondary number for its address.

SECTION THREE: ENFORCEMENT AND PENALTIES.

- (a). It is prohibited and unlawful for any person to fail to comply with the requirements of this Ordinance.
- (b). The City may enforce the provisions of this Ordinance by any lawful means available to the City under the controlling provisions of State law and Section 1.8 of the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.
- (c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the *Code of Ordinances of the City of Daytona Beach Shores, Florida* or as may be available under the controlling provisions of State law.

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, Three, 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 enactment.

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 _____, 2024.

Adopted on second reading this _____ day of _____, 2024.

Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City of Daytona Beach Shores has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City of Daytona Beach Shores may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

Proposed ordinance’s title/reference:

ORDINANCE 2024-01

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO POSTING OF NUMBERS (ADDRESSES) ON PROPERTIES ADJACENT TO ATLANTIC OCEAN BEACH; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, AMENDING CHAPTER 5, ARTICLE V ENTITLED “BUILDING NUMERALS,” BY AMENDING SECTION 5-10 ENTITLED “NUMERALS,” TO PROVIDE FOR THE POSTING OF BUILDING NUMBERS (ADDRESSES) EAST OF THE BUILDING FOR PROPERTIES ADJACENT TO THE ATLANTIC OCEAN BEACH; 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.

Applicable Exemptions: None of the below exemptions are applicable to Ordinance 2024-01

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - ☐ Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
 - ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Business Impact Estimate:

The City of Daytona Beach Shores hereby publishes the following information:

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

Proposed Ordinance 2024-01 serves to protect the public health, safety, morals and welfare by requiring oceanfront properties to post addresses on their seawall or attach the addresses to a fence or sign in a place visible from the beach driving lane if no seawall exists. This assists emergency responders (fire/paramedic/police) to determine locations.

- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

The costs of affixing addresses for oceanfront businesses is unknown and dependent on the business owner's selection of contractor or materials.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

N/A

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be**

imposed on businesses to cover such costs:

N/A

3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:

For FY 22/23 (9/30/2022 to 10/01/2023), there were 48 registered oceanfront businesses within the City of Daytona Beach Shores.

4. Additional information the governing body determines may be useful (if any):

None

Note: The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.



CITY COMMISSION AGENDA MEMORANDUM JANUARY 9, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Noel Eaton, Planner

SUBJECT: Ordinance 2024-02: A Request by B&Y, Inc. To Vacate And Abandon A Portion of Fraile Street (Alley) Right-of-Way

SYNOPSIS:

On November 29, 2023, the City received a partial right-of-way vacation request letter (attached) from the Cobb & Cole law firm, for and on behalf of B&Y, Inc., owner of the properties located at 2000 S. Atlantic Avenue and the 2000 block of Fraile Street. B&Y, Inc. is seeking redevelopment of its properties into one development. However, Fraile Street, an 18.6 foot alley, separates the two properties. In an effort to make a contiguous development that would meet the City's Land Development Code (LDC), the owner is proposing a partial right-of-way vacation of 273.56 feet of Fraile Street and, in return, the owner would maintain said vacated portion and grant the City a perpetual public access and utility easement plus five paved off-beach parking spaces along Botefuhr Avenue. Fraile Street runs in a north-south direction from Botefuhr Avenue to Park Avenue and is approximately 488 feet in length. There is a City sewer line running under the right-of-way. The development proposal will not impact the sewer line.

If approved, Ordinance 2024-02 would vacate said portion of the Fraile Street right-of-way effective upon the issuance of the certificate of occupancy for the development and prior to the execution of the aforementioned requisite easements and agreements.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

Subject to City Commission Approval.

SUGGESTED MOTION:

Subject to City Commission Approval.

- ATTACHMENT:**
1. ORD2024-02 Fraile Street ROW Vacation Request
 2. Exhibit A-Ordinance 2024-02-Sketch and Legal
 3. Partial Fraile Street ROW Vacation-Application Packet
 4. 2000 S. Atlantic Avenue-CONCEPTUAL PLAN 12-21-23
 5. Business Impact Estimate-Ord. 2024-02 Fraile Street ROW Vacation

ORDINANCE NO. 2024-02

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, VACATING AND ABANDONING A PORTION (0.018 ACRES) OF THE FRAILE STREET (ALLEY PER PLAT) RIGHT-OF-WAY TWENTY FEET (20') IN WIDTH, AS SHOWN ON THE PLAT OF MCKEACHIE SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 261 AND AMSTRONG SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 280, ALL OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; PROVIDING FOR CONDITIONS AND THE TAKING OF IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an application was filed with the City Commission of the City of Daytona Beach Shores, Florida, to vacate, and abandon a portion (approximately twenty (20) feet in width by two hundred and thirty six (236) feet in length plus ten (10) feet in width by thirty three (33) feet in length for a total of five thousand and sixty five (5,065) square feet), of the Fraile Street (Alley per plat) right-of-way twenty feet (20') in width, as shown on the plat of MCKEACHIE SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 261 AND AMSTRONG SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 280 of the Public Records of Volusia County, Florida which property is more specifically described in Exhibit "A"; and

WHEREAS, the City Commission of the City of Daytona Beach Shores, Florida finds that vacating, and abandoning of said right-of-way will not operate to the detriment of the City or the public provided that the conditions and provisions set forth in this Ordinance are imposed relative to the vacation and abandonment action taken herein in order to protect the public interest.

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

SECTION ONE: LEGISLATIVE FINDINGS AND INTENT.

(a) The City Commission of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance, the City staff report and City Commission agenda memorandum relating to the application

relating to the proposed partial vacation and abandonment of the right-of-way as set forth herein.

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

(c) This Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Daytona Beach Shores*.

SECTION TWO. VACATION OF RIGHT-OF-WAY (PARTIAL)/IMPLEMENTING ACTIONS.

(a) A portion (approximately twenty (20) feet in width by two hundred and thirty six (236) feet in length plus continuous portion that is ten (10) feet in width by thirty three (33) feet in length for a total of five thousand and sixty five (5,065) square feet), of the Fraile Street (Alley per plat) right-of-way twenty feet (20') in width, as shown on the plat of MCKEACHIE SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 261 AND AMSTRONG SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 280 of the Public Records of Volusia County, Florida; more specifically described in Exhibit "A", be and the same is hereby vacated, and abandoned.

(b) The City Manager, or designee, is hereby authorized to execute any documents necessary to the action taken herein.

(c) The applicant shall pay all costs of the action herein taken to the City prior to this Ordinance being recorded and becoming effective as set forth in Section Six.

(d). As a condition of the action taken in this Ordinance relative to the vacation of the portion of the right-of-way as set forth in Subsection Two(a), the applicant, or such other person(s) and entity(ies) as the City Attorney shall determine, shall grant unto the City, in a form acceptable to the City Attorney, the following:

1. A public utility easement over the portion of the vacated right-of-way.
2. A public access easement through the proposed parking lot.
3. A minimum of five (5) dedicated off beach parking spaces on site.

SECTION THREE: CODIFICATION.

This Ordinance shall not be codified in the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.

SECTION FOUR: CONFLICTS.

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

SECTION FIVE: 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 SIX: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon the Daytona Beach Shores Building Department's issuance of a certificate of occupancy for the construction of a 3,292 square foot commercial gift shop structure at the adjacent property to the east with Volusia County Short Parcel ID Number 5316-22-00-0020 and the recording of this Ordinance in the Public Records (Land Records) of Volusia County, Florida as authorized by the City Manager.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY J. MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER

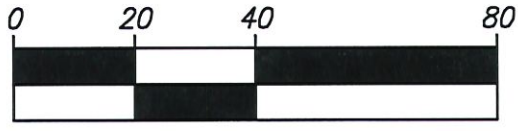
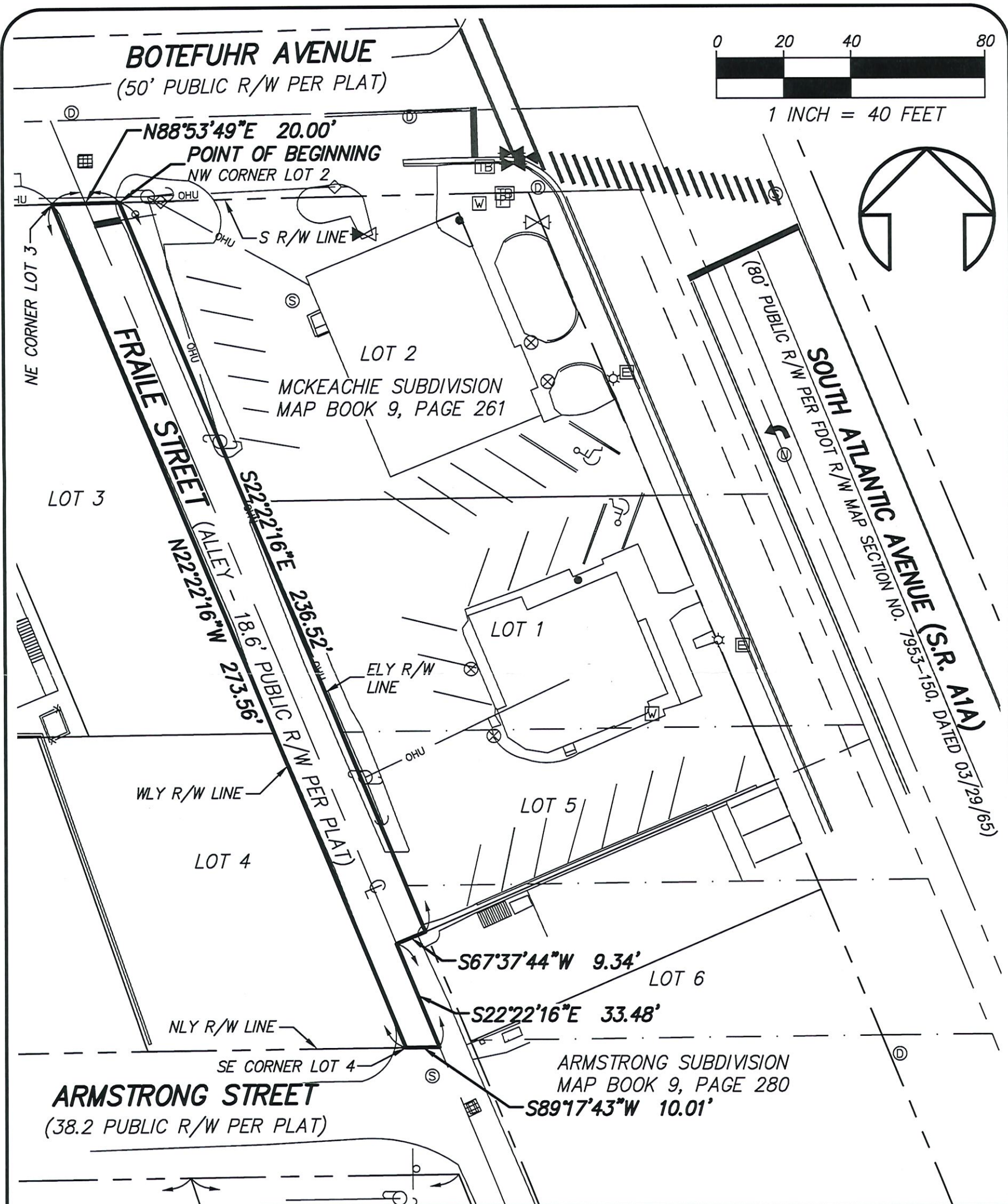
CHERI SCHWAB, CITY CLERK

Approved as to form:

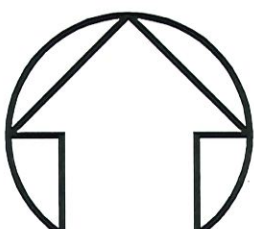
GRETCHEN "BECKY" VOSE, CITY ATTORNEY

Passed on first reading this ____ day of _____, 2024.

Enacted on second reading this ____ day of _____, 2024.



1 INCH = 40 FEET



MARK DOWST & ASSOCIATES, INC.

* ENGINEERS PLANNERS SURVEYORS LB#4335 *

536 NORTH HALIFAX AVENUE, SUITE 100, DAYTONA BEACH, FLORIDA 32118 PH: 386-258-7999

SKETCH AND DESCRIPTION (R/W VACATION)			DRAW DATE: 01/28/23		SCALE: 1" = 40'	PROJECT # 1568
F.B./PG.: N/A	FIELD DATE: N/A	CREW: N/A	DRAWN BY: LAT		CHECKED BY: LHD	SHEET 2 OF 2

RECEIVED
JUN 07 2023
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHOLICS

Drawing name: V:\DWGS\1568 Fraile St. Gift Shop - Survey\Civil 3D-DWGS\1568_sursketch.dwg RW VAC Feb 28, 2023 7:46am

LEGAL DESCRIPTION:

A PORTION OF ALLEY AS SHOWN ON THE PLAT OF MCKEACHIE SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 261, AND ARMSTRONG SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 280, ALL OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 2, SAID MCKEACHIE SUBDIVISION, RUN THENCE S22°22'16"E ALONG THE EAST RIGHT OF WAY LINE OF SAID ALLEY (A.K.A. FRAILE STREET), A DISTANCE OF 236.52 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, RUN S67°37'44"W, A DISTANCE OF 9.34 FEET TO THE CENTERLINE OF SAID ALLEY; THENCE S22°22'16"E ALONG SAID CENTERLINE, A DISTANCE OF 33.48 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH RIGHT-OF-WAY LINE OF ARMSTRONG STREET, HAVING A 38.2 FOOT RIGHT-OF-WAY; THENCE S89°17'43"W ALONG SAID EASTERLY EXTENSION, A DISTANCE OF 10.01 FEET TO THE SOUTHEAST CORNER OF LOT 4, SAID ARMSTRONG SUBDIVISION AND A POINT ON THE WESTERLY RIGHT-OF-WAY OF SAID ALLEY; THENCE N22°22'16"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 273.56 FEET TO THE NORTHEAST CORNER OF LOT 3, SAID MCKEACHIE SUBDIVISION AND THE SOUTH RIGHT-OF-WAY LINE OF BOTEFUHR AVENUE; THENCE N88°53'49"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 0.018 ACRES, MORE OR LESS.

SURVEY NOTES:

- 1. THIS IS NOT A BOUNDARY SURVEY, THIS IS A SKETCH OF DESCRIPTION ONLY.
- 2. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE EASTERLY RIGHT-OF-WAY LINE OF FRAILE STREET (ALLEY), AS BEING S22°22'16"E.
- 3. DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
- 4. IMPROVEMENTS SHOWN HEREON WERE OBTAINED FROM A BOUNDARY SURVEY PREPARED BY THIS FIRM, PROJECT NO. 1568, DATED 10/25/22 AND ARE SHOWN FOR INFOMATIONAL PURPOSES ONLY.

LEGEND AND ABBREVIATIONS:

± MORE OR LESS
AC ACRES
CL CENTER LINE
LB LICENSED BUSINESS
M.B. MAP BOOK
O.R.B. OFFICIAL RECORDS BOOK
PG(S). PAGE/PAGES
PLS PROFESSIONAL LAND SURVEYOR
R/W RIGHT OF WAY
SEC SECTION-TOWNSHIP-RANGE

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THIS SURVEY MEETS THE APPLICABLE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J17.050-.052, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.



Digitally signed
by Lee H Dowst

Date:
2023.02.28
08:17:45 -05'00'

LEE H. DOWST. P.L.S. NO. 6860

THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

MARK DOWST & ASSOCIATES, INC.
* ENGINEERS PLANNERS SURVEYORS LB#4335 *

536 NORTH HALIFAX AVENUE, SUITE 100, DAYTONA BEACH, FLORIDA 32118 PH: 386-258-7999

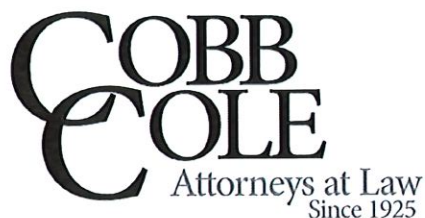
SKETCH AND DESCRIPTION (R/W VACATION)			DRAW DATE: 01/28/23	SCALE: 1" = n/a	PROJECT # 1568
F.B./PG: N/A	FIELD DATE: N/A	CREW: N/A	DRAWN BY: LAT	CHECKED BY: LHD	SHEET 1 OF 2

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JAN 07 2023
DAYTONA BEACH SHORES

413394

Drawing name: V:\DWGS\1568 Fraile St. Gift Shop\Survey\Civil 3D-DWGS\1568_sursketch.dwg RW VAC Feb 28, 2023 7:46am

Scott W. Cichon
Robert A. Merrell III
John P. Ferguson
Mark A. Watts
Heather Bond Vargas
Michael J. Woods
Raymond L. Schumann
Kathleen L. Crotty
Michael O. Sznajstajler
Matthew S. Welch
Robert E. Doan
William A. Rice
Douglas J. Collins
Sara E. Glover
Holly W. Zitzka
Jessica L. Gow
Nika K. Hosseini
Sydney V. Cichon
Brandon T. Byers
Baylee D. Bunyard
Anne M. Kehrli
James P. Love III



OF COUNSEL
Larry D. Marsh

RETIRED
William M. Cobb
(1881-1939)
Thomas T. Cobb
(1916-2004)
W. Warren Cole, Jr.
(1926-2008)

Daytona Beach • DeLand

149 South Ridgewood Avenue, Suite 700
Daytona Beach, Florida 32114
(386) 255-8171
CobbCole.com

November 29, 2023

VIA FEDEX

Stewart Cruz, AICP
City Of Daytona Beach Shores
2990 S. Atlantic Ave.
Daytona Beach Shores, 32118

Re: Petition for Partial Vacation of Plat – Public Rights-of-Way located along Fraile St.

Dear Stewart:

Our firm has the pleasure of representing B and Y Inc., owners of the above-referenced property. The property owners are requesting the vacation of certain right-of-way adjacent to and between their parcels. The existing conditions within the site show asphalt within the parking area that is unstriped and does not create a clear drive aisle. The proposed vacation will allow for relocation of the drive aisle and implementation of parking improvements along both sides of the right-of-way, which will provide updated parking for existing businesses and the opportunity for construction of five additional public parking adjacent to the Botefuhr Avenue right-of-way.

The proposed vacation is one piece of a proposed redevelopment of the property at the southwest corner of Atlantic Avenue and Botefuhr Avenue to allow for its expansion. The proposed changes will move forward concurrent with a site plan review to show the overall area improvements. The proposed redevelopment will include the removal of current beach concession storage within the site, and proposed construction of new parking areas. The redevelopment will be tied to the expansion of the existing gift store within the site, including the installation of additional landscaping along the business and located at the corner of Atlantic Avenue and Botefuhur Avenue. The Applicant is working with City staff to determine if a potential Land Development Code (LDC) text amendment to reduce the required parking for gift stores may also be appropriate for the site and overall City.

We look forward to working with you to bring this project forward.

Sincerely,

Jessica Gow
Direct Dial (386) 323-9225
Email Jessica.Gow@CobbCole.com

Scott W. Cichon
Robert A. Merrell III
John P. Ferguson
Mark A. Watts
Heather Bond Vargas
Michael J. Woods
Raymond L. Schumann
Kathleen L. Crotty
Michael O. Sznapstajler
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Jessica L. Gow
Nika K. Hosseini
Sydney V. Cichon
Brandon T. Byers
Baylee D. Bunyard
Anne M. Kehrl
James P. Love III

COBB COLE

Attorneys at Law
Since 1925

Daytona Beach • DeLand
149 South Ridgewood Avenue, Suite 700
Daytona Beach, Florida 32114
(386) 255-8171
CobbCole.com

OF COUNSEL
Larry D. Marsh

RETIRED
William M. Cobb
(1881-1939)
Thomas T. Cobb
(1916-2004)
W. Warren Cole, Jr.
(1926-2008)

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JUN 07 2023

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

June 5, 2023

VIA FEDEX

Stewart Cruz, AICP
City Of Daytona Beach Shores
2990 S. Atlantic Ave.
Daytona Beach Shores, 32118

Re: Petition for Partial Vacation of Plat -- Public Rights-of-Way located along Fraile St.

Dear Stewart:

Our firm has the pleasure of representing B and Y Inc., owners of the above-referenced property. The property owners are requesting the vacation of certain right-of-way adjacent to and between their parcels. In support of that request, enclosed please find the following documents relating to their Petition for Partial Vacation of Plat:

- Application for Partial Vacation of Plat;
- Application fee in the amount of \$500.00;
- Copy of Fraile St. Sketch and Legal;
- List of Parcels Included in Rezoning;
- Proof of Payment of Taxes;
- Location map; and
- Utility Letters of No Objection, provided by AT&T, City of Daytona Beach, City of Daytona Beach Shores, FPL, and Tecu Peoples Gas.

Please contact me if you have any questions. We look forward to hearing from you.

Sincerely,



Jessica Gow

Direct Dial (386) 323-9225
Email Jessica.Gow@CobbCole.com

JLG: tmn
Enclosures



City of Daytona Beach Shores
Planning & Zoning Division
Department of Community Services
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone 386-763-5376

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JUN 07 2023

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

12023029

413394

RIGHT-OF-WAY VACATION APPLICATION

Applicant: Jessica Gow, Esq. OBO B and Y Inc.

Address: 149 S. Ridgewood Ave. Suite 700, Datyona Beach, FL 32114

Phone: 386-323-9226

Fax: _____

Email: Jessica.Gow@cobbcole.com

Adjacent Property 1 Owner(s): B and Y Inc.

Address: 2000 S. Atlantic Ave., Daytona Beach Shores, FL 32118

Parcel No. 531622000020

Phone: _____

Fax: _____

Email: _____

Adjacent Property 2 Owner(s): Angels X LLC

Address: 2006 S. Atlantic Ave, Daytona Beach Shores, 32118

Parcel No.: 531622000010

Phone: _____

Fax: _____

Email: _____

(Provide a separate attachment for additional adjacent properties if necessary)

Legal Description of the proposed right-of-way vacation area *(provide a separate attachment if necessary):*

See Attached

Purpose for the proposed right-of-way vacation:

to Vacate a portion of Public Right-of-Way located alongside the above identified parcels.

REQUIRED ATTACHMENTS

1. A current, original, sealed property survey of the proposed easement vacation area and the adjacent properties
2. A copy of the recorded deeds for the adjacent properties
3. A property tax payment certification or a copy of the total property tax payment receipt for the adjacent properties
4. The application processing and recording fee payment of \$500.00 +costs
5. The completed original application form (notarized signatures required on Page 2)

Applicant Signature: [Signature] Date: 6/5/23
Printed Name: Jessica Gow

I HEREBY GRANT AUTHORIZATION FOR THE ABOVE LISTED APPLICANT TO ACT ON MY BEHALF:

Adjacent Property 1 Owner Signature: [Signature] Date: 6-1-23
Printed Name: YEHUDA MORAL Date: 6-1-23
Adjacent Property 1 Owner Signature: _____ Date: _____
Printed Name: _____ Date: _____

**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 June, 2023 by Yehuda Moral, who ☐ is personally known to me or ☒ who has produced MI 40-960-59200-01 as identification.

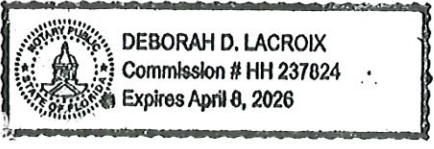


[Signature]
Notary Public, State of Florida
Printed Name, Commission, & Term Expiration Date:

Adjacent Property 2 Owner Signature: Jodi Tamlinson for Angela HC Date: 6-1-2023
Printed Name: Jodi Tamlinson Date: 6-1-2023
Adjacent Property 2 Owner Signature: _____ Date: _____
Printed Name: _____ Date: _____

**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 June, 2023 by Jodi Tamlinson, who ☐ is personally known to me or ☒ who has produced T-545-432-70076-0 as identification.



[Signature]
Notary Public, State of Florida
Printed Name, Commission, & Term Expiration Date:

Parcels

531622000020

531622000010

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JUN 07 2023

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

413394



WILL ROBERTS TAX COLLECTOR SERVING VOLUSIA COUNTY
NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS
2022 Paid Real Estate

PROPERTY ADDRESS: 2006 S ATLANTIC AVE, DAYTONA BEACH SHORES, 32118
LEGAL DESCRIPTION: LOT 1 EXC R/W MC KEACHIE SUB PLAT 2 MB 9 PG 261& INC IRREG P
 ARCEL IN LOTS 5 & 6 BEING N 5
 See Additional Legal on Tax Roll

ANGELS X LLC
 PO BOX 7198
 DAYTONA BEACH, FL 32116

PARCEL: 531622000010
ALTERNATE KEY : 3415477
MILLAGE CODE: 403
TAX YEAR: 2022

RECEIVED

Paid By JODI TOMLINSON
 03/31/2023 \$4,268.70

Receipt # 415-22-0001111

Pay Online

PAY IN U.S. DOLLARS DRAWN FROM A U.S. BANK

JUN 07 2023

Pay online at vctaxcollector.org/pay
 WALK-IN CUSTOMERS PLEASE BRING ENTIRE NOTICE

BUILDING AND CODES DIVISION
TAXES BECOME DELINQUENT APRIL 1

If Postmarked By	Mar 31, 2023				
Discount					
Please Pay	\$0.00				

AD VALOREM TAXES

TAXING AUTHORITY	MILLAGE	ASSESSED VALUE	EXEMPTION	TAXABLE VALUE	TAX AMOUNT
VOLUSIA COUNTY GENERAL FUND	4.84990	246,101	0	246,101	1,193.57
VOLUSIA COUNTY LIBRARY	0.46350	246,101	0	246,101	114.07
VOLUSIA FOREVER	0.20000	246,101	0	246,101	49.22
VOLUSIA ECHO	0.20000	246,101	0	246,101	49.22
VOLUSIA COUNTY MOSQUITO CONTROL	0.17810	246,101	0	246,101	43.83
PONCE INLET PORT AUTHORITY	0.07600	246,101	0	246,101	18.70
SCHOOL	5.48200	253,592	0	253,592	1,390.20
DAYTONA BEACH SHORES	4.63890	246,101	0	246,101	1,141.64
ST JOHNS WATER MANAGEMENT DIST	0.19740	246,101	0	246,101	48.58
FLORIDA INLAND NAVIGATION DIST	0.03200	246,101	0	246,101	7.88
HALIFAX HOSPITAL AUTHORITY	0.86060	246,101	0	246,101	211.79

TOTAL MILLAGE RATE:

17.17840

TOTAL TAXES:

\$4,268.70

NON-AD VALOREM ASSESSMENTS

LEVYING AUTHORITY	TELEPHONE	RATE PER UNIT	AMOUNT
-------------------	-----------	---------------	--------

TOTAL ASSESSMENTS:

\$0.00

TOTAL COMBINED TAXES AND ASSESSMENTS:

\$4,268.70

Will Roberts - Tax Collector
 123 W. Indiana Ave., Room 103
 DeLand, FL 32720
 (386) 736-5938 | taxcollector@vctaxcollector.org
 PAY IN U.S. DOLLARS DRAWN ON A U.S. BANK

Pay online at vctaxcollector.org/pay
2022 Paid Real Estate

PARCEL: 531622000010
ALTERNATE KEY : 3415477
TAX YEAR: 2022

PROPERTY ADDRESS:

2006 S ATLANTIC AVE, DAYTONA BEACH SHORES, 32118

ANGELS X LLC
 PO BOX 7198
 DAYTONA BEACH, FL 32116

Please do not staple, tape, or paperclip your payment to this stub. TAXES BECOME DELINQUENT APRIL 1

If Postmarked By	Mar 31, 2023				
Please Pay	\$0.00				

TaxSys

PLEASE DO NOT WRITE ON THIS STUB



Receipt # 415-22-0001111
 Paid 03/31/2023

\$4,268.70

Important information – Please read carefully

The statement, “**Prior year taxes are due. Please call (386) 736-5938.**” indicates that the parcel has delinquent prior year taxes. Certified funds are required.

Current year taxes become delinquent on April 1. On April 1, all delinquent parcels are assessed a minimum charge of 3% in accordance with Florida Statute. Delinquent real estate parcels will incur advertising and auction listing fees. **A tax certificate (lien) also will be sold by June 1.** Payment must be made in certified funds after a tax certificate is issued. Delinquent tangible parcels will incur an advertising fee, the cost of collection will be assessed, and **a warrant will be issued by June 1.** If the tangible bill remains unpaid, the property will become subject to **seizure and sale at public auction.**

If this parcel or tangible personal property has been sold, please send this bill to the new owner or return it to the Volusia County Tax Collector. For tangible personal property, **if you were the owner as of January 1 of the tax year**, you may be responsible for paying the taxes **even if you have closed the business.**

Notice to taxpayers entitled to homestead exemption: If your income is low enough to meet certain conditions, and the total mortgages and liens against the parcel are low enough, **you may qualify for a deferred tax payment plan** on homestead property. Deferral of taxes does not excuse the debt. The deferred amount will earn interest and **must be paid at a later date.** Information and application to determine eligibility are available at any Tax Collector office location.

Prepayment of estimated tax by installment method: Under certain conditions, taxes may be prepaid for the **future tax year** by quarterly installments billed in June, September, December, and March. If interested, please submit an application to the Tax Collector office by **April 30.** Installment applications can be found online at vctaxcollector.org/pay. To obtain a paper application, please visit vctaxcollector.org/taxes or visit any Tax Collector office location. It is not necessary to reapply if you participated in the plan during the previous tax year and made timely payments.

The **taxing authorities** are responsible for setting the ad valorem millage rates. The levying authorities are responsible for setting non-ad valorem assessments.

The **Volusia County Property Appraiser** is responsible for the preparation of the current ad valorem tax roll, including the assessed value, exemptions, taxable value, assessed owner(s) name and mailing address, property address and legal description. You may reach the Property Appraiser's Office at (386) 736-5901 or vcpa@volusia.org.

The **Tax Collector** is responsible for the preparation and mailing of tax notices based on the information contained on the current tax roll certified by the Volusia County Property Appraiser and non-ad valorem assessments provided by the levying authorities, and for the collection and distribution of tax dollars to the various taxing authorities.

Important dates to remember

March 1 Deadline to file for exemptions for the next tax year. Application is filed with the Volusia County Property Appraiser's office.

March 31 Deadline for Working Waterfront, Affordable Rental Housing, or Homestead Tax Deferral applications for the current tax year. The application is filed with the Tax Collector.

March 31 Last day for full payment without penalty. Also the final day for making partial payments. Unpaid balances become delinquent April 1.

April 30 Deadline for new quarterly installment plan applications for the next tax year. Must be filed with the Tax Collector. No need to reapply if you participated in the plan during the previous tax year and made timely payments.

Important payment information

- Please do not staple, tape, or paperclip your payment to this stub.
- Verify that the legal written line and the numerical amount of your check match and reflect the exact amount due for the period in which you are paying.
- Verify that you have signed the check made payable to: **Will Roberts - Tax Collector.**
- Please use the enclosed return envelope if you choose to mail your payment or mail to:

Will Roberts - Tax Collector 123 W. Indiana Avenue Room 103 DeLand, FL 32720

Have your bill sent directly to your inbox!

Visit vctaxcollector.org/pay to sign up.

RECORD AND RETURN TO:

This Instrument Prepared by:

Covenant Closing & Title Services, Inc.
4879 Palm Coast Parkway NW, Unit #5
Palm Coast, Florida 32137

as a necessary incident to the fulfillment of conditions
contained in a title insurance commitment issued by it.

Property Appraisers Parcel I.D. (Folio) Number(s):
[REDACTED] and 531621000050

File No: 20130255

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JUN 07 2023

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

413394

**WARRANTY DEED
(CORPORATION)**

This Warranty Deed Made the 22nd day of August, 2013, by DUSTY INVESTMENTS, INC., a corporation existing under the laws of Florida, and having its place of business at 518 N. Halifax, Daytona Beach, Florida 32118, hereinafter called the grantor,

to ANGEL'S X, LLC, a Florida Limited Liability Company
whose post office address is: P.O. Box 7198, Daytona Beach, Florida 32116,
hereinafter called the grantee,

WITNESSETH: That said grantor, for and in consideration of the sum of \$175,000.00 Dollars and other valuable considerations, receipt whereof is hereby acknowledged, by these presents grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Volusia County, Florida, viz:

All of Lot 1, McKeachie Subdivision, according to map recorded in Map Book 9, Page 261, of the Public Records of Volusia County, Florida. Also, that portion of Lots 5 and 6, Armstrong Subdivision, as recorded in Map Book 9, Page 280, of the Public Records of Volusia County, Florida, More particularly described as follows:

Beginning at the Northeast Corner of Lot 5, Armstrong Subdivision, said corner being 173.25 feet Southerly, as measured along Atlantic Ave, of the South Line of Botefuhr Avenue, Thence Westerly along the North Line of Lot 5, a distance of 155 feet to a point which is the Northwest Corner of Lot 5, thence, Southerly and Parallel to Atlantic Ave., along the West Line of Lots 5 and 6, a distance of 65 feet to a point in the West Line of Lot 6, said Point being a distance of 15 feet Southerly of the Northwest Corner of Lot 6, thence Easterly a distance of 143.93 feet to a Point in the West Line of Atlantic Ave., said point being a distance of 5 feet Southerly, as measured along Atlantic Avenue, of the Northeast Corner of Lot 5, thence Northerly 5 Feet along the West Line of Atlantic Avenue, to the Northeast Corner of Lot 5 and to the place of beginning, less that part taken for Atlantic Avenue.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.
To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to 2012, reservations, restrictions and easements of record, if any.
(Wherever used herein the terms "grantor" and "grantee" included all the parties to this instrument, and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporation.)

In Witness Whereof, the Grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, sealed and delivered in our presence:

Witness #1 Signature: [Signature]

Printed Name: Raige Reimer

Witness #2 Signature: [Signature]

Printed Name: ERIC PALACIOS

DUSTY INVESTMENTS, INC., A Florida Corporation

BY: [Signature]

Cyril Javurek, President

***TWO SEPARATE WITNESSES REQUIRED**

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 20th day of August, 2013, by Cyril Javurek as President of DUSTY INVESTMENTS, INC.,* on behalf of the corporation. He is personally known to me or who has produced driver license(s) as identification.

* A Florida Corporation

My Commission Expires:

Marianna T. Vanderhoof
Notary Public

(Notary Seal)

Page 2 of 2 Pages



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JUN 07 2023

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

Location Map





WILL ROBERTS TAX COLLECTOR SERVING VOLUSIA COUNTY
NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS
2022 Paid Real Estate

PROPERTY ADDRESS: 2000 S ATLANTIC AVE, DAYTONA BEACH SHORES, 32118
LEGAL DESCRIPTION: LOTS 2 & 3 EXC R/W MC KEACHIE SUB PLAT 2 MB 9 PG 261 & LOT 4
 ARMSTRONG SUB MB 9 PG 280 PER
 See Additional Legal on Tax Roll

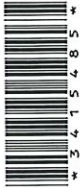
RECEIVED
JUN 07 2023

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

PARCEL: 531622000020
ALTERNATE KEY : 3415485
MILLAGE CODE: 403
TAX YEAR: 2022

Paid By: B AND Y INC
 03/07/2023

Receipt # 065-22-0001858



B AND Y INC
 3 SWEET MEADOW CT
 ORMOND BEACH, FL 32174

Pay Online

PAY IN U.S. DOLLARS DRAWN FROM A U.S. BANK.

413394

Pay online at vctaxcollector.org/pay
 WALK-IN CUSTOMERS PLEASE BRING ENTIRE NOTICE

TAXES BECOME DELINQUENT APRIL 1

If Postmarked By	Mar 31, 2023				
Discount					
Please Pay	\$0.00				

AD VALOREM TAXES

TAXING AUTHORITY	MILLAGE	ASSESSED VALUE	EXEMPTION	TAXABLE VALUE	TAX AMOUNT
VOLUSIA COUNTY GENERAL FUND	4.84990	247,282	0	247,282	1,199.29
VOLUSIA COUNTY LIBRARY	0.46350	247,282	0	247,282	114.62
VOLUSIA FOREVER	0.20000	247,282	0	247,282	49.46
VOLUSIA ECHO	0.20000	247,282	0	247,282	49.46
VOLUSIA COUNTY MOSQUITO CONTROL	0.17810	247,282	0	247,282	44.04
PONCE INLET PORT AUTHORITY	0.07600	247,282	0	247,282	18.79
SCHOOL	5.48200	261,834	0	261,834	1,435.37
DAYTONA BEACH SHORES	4.63890	247,282	0	247,282	1,147.12
ST JOHNS WATER MANAGEMENT DIST	0.19740	247,282	0	247,282	48.81
FLORIDA INLAND NAVIGATION DIST	0.03200	247,282	0	247,282	7.91
HALIFAX HOSPITAL AUTHORITY	0.86060	247,282	0	247,282	212.81

TOTAL MILLAGE RATE:

17.17840

TOTAL TAXES:

\$4,327.68

NON-AD VALOREM ASSESSMENTS

LEVYING AUTHORITY	TELEPHONE	RATE PER UNIT	AMOUNT
-------------------	-----------	---------------	--------

TOTAL ASSESSMENTS:

\$0.00

TOTAL COMBINED TAXES AND ASSESSMENTS:

\$4,327.68

Will Roberts - Tax Collector
 123 W. Indiana Ave., Room 103
 DeLand, FL 32720
 (386) 736-5938 | taxcollector@vctaxcollector.org
 PAY IN U.S. DOLLARS DRAWN ON A U.S. BANK

Pay online at vctaxcollector.org/pay
2022 Paid Real Estate

PARCEL: 531622000020
ALTERNATE KEY : 3415485
TAX YEAR: 2022



PROPERTY ADDRESS:

2000 S ATLANTIC AVE, DAYTONA BEACH SHORES, 32118

B AND Y INC
 3 SWEET MEADOW CT
 ORMOND BEACH, FL 32174

Please do not staple, tape, or paperclip your payment to this stub. TAXES BECOME DELINQUENT APRIL 1

If Postmarked By	Mar 31, 2023				
Please Pay	\$0.00				

TaxSys



PLEASE DO NOT WRITE ON THIS STUB

Receipt # 065-22-0001858

\$4,327.68

Paid 03/07/2023

Important information – Please read carefully

The statement, “**Prior year taxes are due. Please call (386) 736-5938.**” indicates that the parcel has delinquent prior year taxes. Certified funds are required.

Current year taxes become delinquent on April 1. On April 1, all delinquent parcels are assessed a minimum charge of 3% in accordance with Florida Statute. Delinquent real estate parcels will incur advertising and auction listing fees. **A tax certificate (lien) also will be sold by June 1.** Payment must be made in certified funds after a tax certificate is issued. Delinquent tangible parcels will incur an advertising fee, the cost of collection will be assessed, and **a warrant will be issued by June 1.** If the tangible bill remains unpaid, the property will become subject to **seizure and sale at public auction.**

If this parcel or tangible personal property has been sold, please send this bill to the new owner or return it to the Volusia County Tax Collector. For tangible personal property, **if you were the owner as of January 1 of the tax year**, you may be responsible for paying the taxes **even if you have closed the business.**

Notice to taxpayers entitled to homestead exemption: If your income is low enough to meet certain conditions, and the total mortgages and liens against the parcel are low enough, **you may qualify for a deferred tax payment plan** on homestead property. Deferral of taxes does not excuse the debt. The deferred amount will earn interest and **must be paid at a later date.** Information and application to determine eligibility are available at any Tax Collector office location.

Prepayment of estimated tax by installment method: Under certain conditions, taxes may be prepaid for the **future tax year** by quarterly installments billed in June, September, December, and March. If interested, please submit an application to the Tax Collector office by **April 30.** Installment applications can be found online at vctaxcollector.org/pay. To obtain a paper application, please visit vctaxcollector.org/taxes or visit any Tax Collector office location. It is not necessary to reapply if you participated in the plan during the previous tax year and made timely payments.

The **taxing authorities** are responsible for setting the ad valorem millage rates. The levying authorities are responsible for setting non-ad valorem assessments.

The **Volusia County Property Appraiser** is responsible for the preparation of the current ad valorem tax roll, including the assessed value, exemptions, taxable value, assessed owner(s) name and mailing address, property address and legal description. You may reach the Property Appraiser's Office at (386) 736-5901 or vcpa@volusia.org.

The **Tax Collector** is responsible for the preparation and mailing of tax notices based on the information contained on the current tax roll certified by the Volusia County Property Appraiser and non-ad valorem assessments provided by the levying authorities, and for the collection and distribution of tax dollars to the various taxing authorities.

Important dates to remember

March 1 Deadline to file for exemptions for the next tax year. Application is filed with the Volusia County Property Appraiser's office.

March 31 Deadline for Working Waterfront, Affordable Rental Housing, or Homestead Tax Deferral applications for the current tax year. The application is filed with the Tax Collector.

March 31 Last day for full payment without penalty. Also the final day for making partial payments. Unpaid balances become delinquent April 1.

April 30 Deadline for new quarterly installment plan applications for the next tax year. Must be filed with the Tax Collector. No need to reapply if you participated in the plan during the previous tax year and made timely payments.

Important payment information

- Please do not staple, tape, or paperclip your payment to this stub.
- Verify that the legal written line and the numerical amount of your check match and reflect the exact amount due for the period in which you are paying.
- Verify that you have signed the check made payable to: **Will Roberts - Tax Collector.**
- Please use the enclosed return envelope if you choose to mail your payment or mail to:

Will Roberts - Tax Collector 123 W. Indiana Avenue Room 103 DeLand, FL 32720

Have your bill sent directly to your inbox!

Visit vctaxcollector.org/pay to sign up.

executive

3475 0778

VOLUSIA CO. FL

PREPARED BY:

ROBERT KIT KOREY, FSO, #00039

595 W. Granada Blvd., Ste. A

Ormond Beach, FL 32174

This Indenture,

Made this 23rd day of May

A. D. 19 90

JUN 07 2023

Between SUDER, INC., a Florida corporation
a corporation existing under the laws of the State of Florida
having its principal place of business in the County of Volusia
State of Florida party of the first part, and

B AND Y, INC., a Florida corporation
P.O. Box 3539, Ormond Beach, FL 32175-3539
I.D. [redacted]

of the County of Volusia and State of Florida
party of the second part,

Witnesseth, that the said party of the first part, for and in consideration of the sum of Ten and no/100----- (\$10.00)----- Dollars, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said party of the second part forever, the following described land, situate, lying and being in the County of Volusia, State of Florida, to wit:

PARCEL I:

Lots 2 and 3, MC KEACHIE SUBDIVISION, according to the map or plat thereof, as recorded in Map Book 9, Page 261, Public Records of Volusia County, Florida.

PARCEL II:

Lot 4, ARMSTRONG SUBDIVISION, according to the map or plat thereof as recorded in Map Book 9, Page 280, Public Records of Volusia County, Florida.

SUBJECT to taxes for the year 1990 and subsequent years.

SUBJECT to restrictions, easements and reservations of record, if any.

And the said party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, the said party of the first part has caused these presents to be signed in its name by its President, and its corporate seal to be affixed, attested by its the day and year above written.

(Corporate Seal)

Attest:

SUDER, INC.

By Deborah K. Suder - President.

Signed, Sealed and Delivered in Our Presence:

Pamela J. Thomas
State of Florida

County of Volusia

REG FEE \$ 6.15
DOC ST \$ 206.25
INT TAX \$
PENALTY \$
INTEREST \$
Clerk Circuit Court Volusia Co. Florida

RECORD PAYMENT AS
ING CALL FOR PLANS
TO BE RECORDED IN
STAMP TACKLING

U. S. Smith

I Hereby Certify, That on this 23rd day of May A. D. 1990, before me personally appeared DEBORAH K. SUDER and

respectively of SUDER, INC., a Florida corporation, a corporation under the laws of the State of Florida, to me known to be the persons described in and who executed the foregoing conveyance to

B AND Y, INC., a Florida corporation

and severally acknowledged the execution thereof to be their free act and deed as such officers, for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said corporation, and the said instrument is the act and deed of said corporation.

Witness my signature and official seal at in the County of Volusia year last aforesaid.

(NOTARY SEAL)

Ormond Beach

and State of Florida, the day and

Pamela J. Thomas
Notary Public
My Commission Expires November 20, 1991
Bonded through Troy Felt Insurance, Inc.

RECEIVED

JUN 07 2023

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES
413594

LEGAL DESCRIPTION:

PARCEL I:

LOT 2 MCKEACHIE SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 9, PAGE 261, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PARCEL II:

ALL OF LOT 1, MCKEACHIE SUBDIVISION, ACCORDING TO MAP RECORDED IN MAP BOOK 9, PAGE 261, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. ALSO, THAT PORTION OF LOTS 5 AND 6, ARMSTRONG SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 280, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 5, ARMSTRONG SUBDIVISION, SAID CORNER BEING 173.25 FEET SOUTHERLY, AS MEASURED ALONG ATLANTIC AVE, OF THE SOUTH LINE OF BOTEFUHR AVENUE, THENCE WESTERLY ALONG THE NORTH LINE OF LOT 5, A DISTANCE OF 155 FEET TO A POINT WHICH IS THE NORTHWEST CORNER OF LOT 5, THENCE, SOUTHERLY AND PARALLEL TO ATLANTIC AVE., ALONG THE WEST LINE OF LOTS 5 AND 6, A DISTANCE OF 65 FEET TO A POINT IN THE WEST LINE OF LOT 6, SAID POINT BEING A DISTANCE OF 15 FEET SOUTHERLY OF THE NORTHWEST CORNER OF LOT 6, THENCE EASTERLY A DISTANCE OF 143.93 FEET TO A POINT IN THE WEST LINE OF ATLANTIC AVE., SAID POINT BEING A DISTANCE OF 5 FEET SOUTHERLY, AS MEASURED ALONG ATLANTIC AVENUE, OF THE NORTHEAST CORNER OF LOT 5, THENCE NORTHERLY 5 FEET ALONG THE WEST LINE OF ATLANTIC AVENUE, TO THE NORTHEAST CORNER OF LOT 5 AND TO THE PLACE OF BEGINNING, LESS THAT PART TAKEN FOR ATLANTIC AVENUE.



City of Daytona Beach
UTILITIES DEPARTMENT

125 Basin Street, Suite 204
Daytona Beach, FL 32114
(386) 671-8825
ponitzshannon@codb.us

RECEIVED

JUN 07 2023

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

April 3, 2023

413394

Mrs. Jessica Gow
Cobb Cole
149 South Ridgewood Avenue, Suite 700
Daytona Beach, FL 32114

Re: Request for "Letter of No Objection"
Fraile Street (Adjacent to Parcel 531622000020 and 531622000010)
Partial ROW Vacation

Dear Mrs. Gow,

The City of Daytona Beach has evaluated the request to release the subject ROW. The City of Daytona Beach has no existing utility infrastructure within Fraile Street.

The City of Daytona Beach Utilities Department has no objection to the requested vacation and City utilities will not be impacted by this vacation.

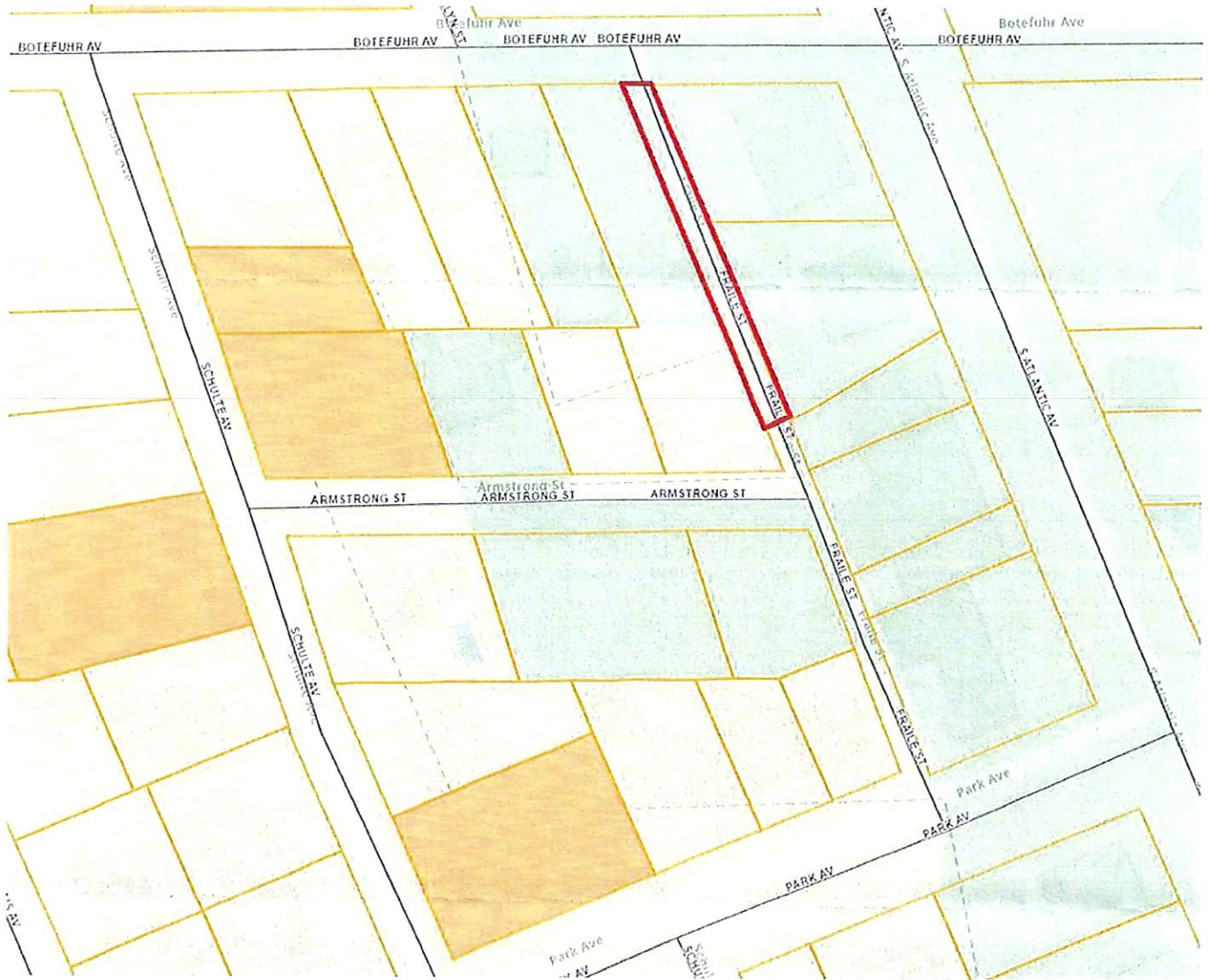
Should you have any questions or concerns, please do not hesitate to contact me at 386-671-8825.

Sincerely,

Shannon Ponitz, P.E.
Utilities Director

Attachments: ROW Exhibit Description

Location Map



LEGAL DESCRIPTION:

A PORTION OF ALLEY AS SHOWN ON THE PLAT OF MCKEACHIE SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 261, AND ARMSTRONG SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 280, ALL OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 2, SAID MCKEACHIE SUBDIVISION, RUN THENCE S22°22'16"E ALONG THE EAST RIGHT OF WAY LINE OF SAID ALLEY (A.K.A. FRAILE STREET), A DISTANCE OF 236.52 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, RUN S67°37'44"W, A DISTANCE OF 9.34 FEET TO THE CENTERLINE OF SAID ALLEY; THENCE S22°22'16"E ALONG SAID CENTERLINE, A DISTANCE OF 33.48 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH RIGHT-OF-WAY LINE OF ARMSTRONG STREET, HAVING A 38.2 FOOT RIGHT-OF-WAY; THENCE S89°17'43"W ALONG SAID EASTERLY EXTENSION, A DISTANCE OF 10.01 FEET TO THE SOUTHEAST CORNER OF LOT 4, SAID ARMSTRONG SUBDIVISION AND A POINT ON THE WESTERLY RIGHT-OF-WAY OF SAID ALLEY; THENCE N22°22'16"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 273.56 FEET TO THE NORTHEAST CORNER OF LOT 3, SAID MCKEACHIE SUBDIVISION AND THE SOUTH RIGHT-OF-WAY LINE OF BOTEFUHR AVENUE; THENCE N88°53'49"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 0.018 ACRES, MORE OR LESS.

SURVEY NOTES:

1. THIS IS NOT A BOUNDARY SURVEY, THIS IS A SKETCH OF DESCRIPTION ONLY.
2. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE EASTERLY RIGHT-OF-WAY LINE OF FRAILE STREET (ALLEY), AS BEING S22°22'16"E.
3. DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
4. IMPROVEMENTS SHOWN HEREON WERE OBTAINED FROM A BOUNDARY SURVEY PREPARED BY THIS FIRM, PROJECT NO. 1568, DATED 10/25/22 AND ARE SHOWN FOR INFORMATIONAL PURPOSES ONLY.

LEGEND AND ABBREVIATIONS:

± MORE OR LESS
AC ACRES
CL CENTER LINE
LB LICENSED BUSINESS
M.B. MAP BOOK
O.R.B. OFFICIAL RECORDS BOOK
PG(S). PAGE/PAGES
PLS PROFESSIONAL LAND SURVEYOR
R/W RIGHT OF WAY
SEC SECTION-TOWNSHIP-RANGE

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THIS SURVEY MEETS THE APPLICABLE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J17.050-.052, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.



Digitally signed
by Lee H Dowst

Date:
2023.02.28
08:17:45 -05'00'

LEE H. DOWST. P.L.S. NO. 6860

THIS SURVEY IS NOT VALID WITHOUT THE
ORIGINAL SIGNATURE AND SEAL OF A
FLORIDA LICENSED SURVEYOR AND MAPPER.



MARK DOWST & ASSOCIATES, INC.

* ENGINEERS PLANNERS SURVEYORS LB#4335 *

536 NORTH HALIFAX AVENUE, SUITE 100, DAYTONA BEACH, FLORIDA 32118 PH: 386-258-7999

SKETCH AND DESCRIPTION (R/W VACATION)

DRAW DATE: 01/28/23

SCALE: 1" = 1/4"

PROJECT # 1568

F.B./PG.: N/A

FIELD DATE: N/A

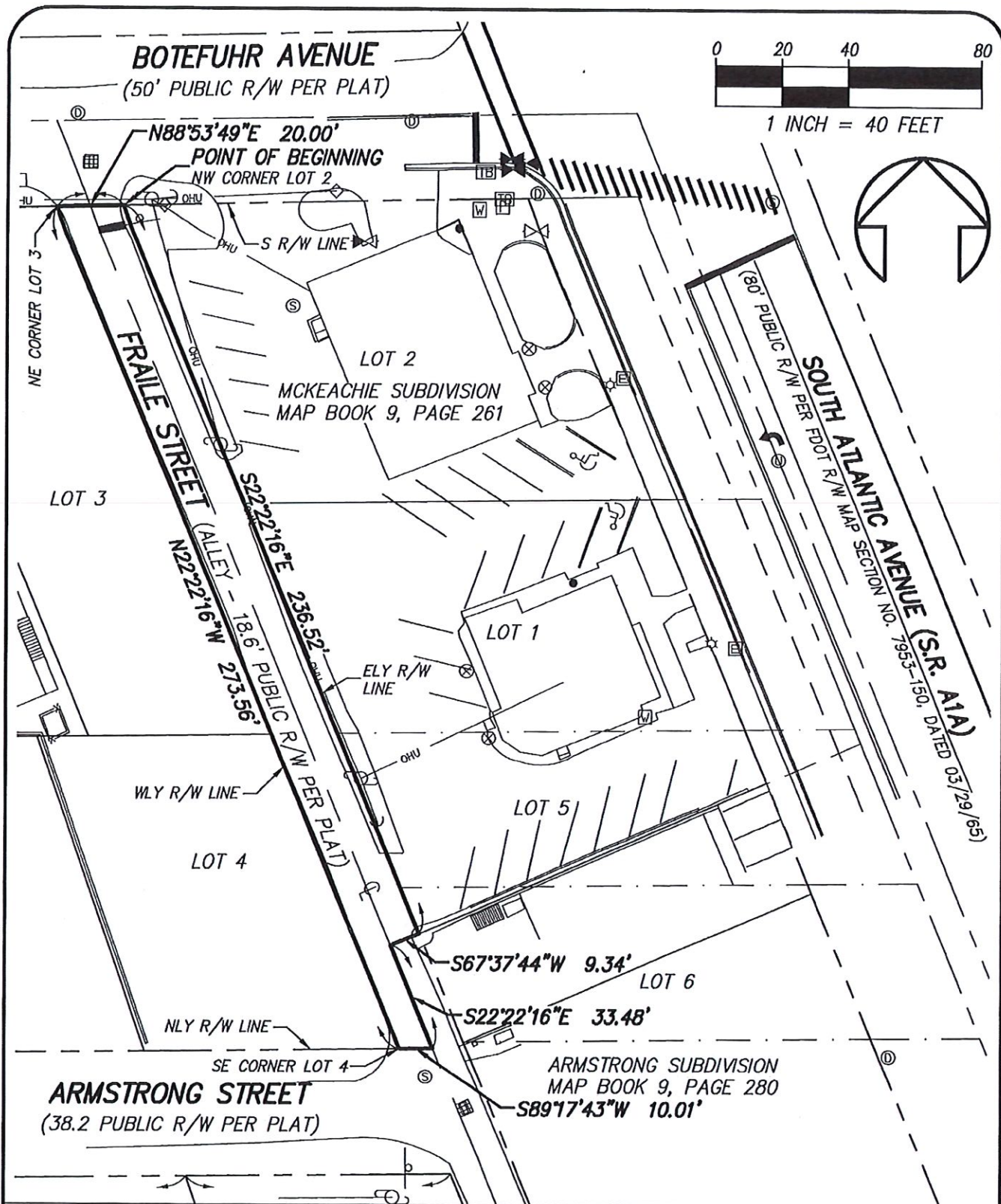
CREW: N/A

DRAWN BY: LAT

CHECKED BY: LHD

SHEET 1 OF 2

Drawing name: V:\DWGS\1568 Fraile St. Glt Shop \Survey\Civil 3D-DWG\1568_sursketch.dwg RW VAC Feb 28, 2023 7:46am



MARK DOWST & ASSOCIATES, INC.
* ENGINEERS PLANNERS SURVEYORS LB#4335 *

536 NORTH HALIFAX AVENUE, SUITE 100, DAYTONA BEACH, FLORIDA 32118 PH: 386-258-7999

SKETCH AND DESCRIPTION (R/W VACATION)		DRAW DATE: 01/28/23	SCALE: 1" = 40'	PROJECT # 1568
F.B./PG.: N/A	FIELD DATE: N/A	CREW: N/A	DRAWN BY: LAT	CHECKED BY: LHD
			SHEET 2 OF 2	

Drawing name: V:\DWGS\1568 Fraile St. Gift Shop - Survey\Civil 3D-DWG\1568_sursketch.dwg RW VAC Feb 28, 2023 7:46am



March 29, 2023

To: Jessica Gow
Cobb Cole Attorneys at Law
149 South Ridgewood Ave Suite 700.
Daytona Beach, FL 32114

RE: Partial Right-Of-Way Vacation
Fraile St. Daytona Beach, FL 32118

LEGAL DESCRIPTION

A PORTION OF ALLEY AS SHOWN ON THE PLAT OF MCKEACHIE SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 261, AND ARMSTRONG SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 280, ALL OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 2, SAID MCKEACHIE SUBDIVISION, RUN THENCE S22°22'16"E ALONG THE EAST RIGHT OF WAY LINE OF SAID ALLEY (A.K.A. FRAILE STREET), A DISTANCE OF 236.52 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, RUN S67°37'44"W, A DISTANCE OF 9.34 FEET TO THE CENTERLINE OF SAID ALLEY; THENCE S22°22'16"E ALONG SAID CENTERLINE, A DISTANCE OF 33.48 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH RIGHT-OF-WAY LINE OF ARMSTRONG STREET, HAVING A 38.2 FOOT RIGHT-OF-WAY; THENCE S89°17'43"W ALONG SAID EASTERLY EXTENSION, A DISTANCE OF 10.01 FEET TO THE SOUTHEAST CORNER OF LOT 4, SAID ARMSTRONG SUBDIVISION AND A POINT ON THE WESTERLY RIGHT-OF-WAY OF SAID ALLEY; THENCE N22°22'16"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 273.56 FEET TO THE NORTHEAST CORNER OF LOT 3, SAID MCKEACHIE SUBDIVISION AND THE SOUTH RIGHT-OF-WAY LINE OF BOTEFUHR AVENUE; THENCE N88°53'49"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

To: Whom It May Concern,

Thank you for contacting TECO Peoples Gas Company regarding the partial vacate of right-of-way at the above referenced location. After reviewing the documents provided, TECO-PGS has NO objection to this request. TECO-PGS does not have any active facilities in this specified area.

If you have further questions, please do not hesitate to call.

Sincerely,

Joan Domning
Administrative Specialist, Senior
Peoples Gas-Distribution Engineering
8416 Palm River Road
Tampa, FL 33619
Office: 813-275-3783



March 28, 2023

Cobb Cole Attorneys at Law
149 S Ridgewood Ave, Suite 700
Daytona Beach, FL, 32114

Dear Jessica Gow,

This letter is in response to your request for the release of a platted road right-of-way.

In meeting with your request, FPL has no objection to releasing our rights in the road right-of-way known as "Fraile Street" in Plat Book 9, Page 280 of the Public records of Volusia County .

The release is restricted to the following description: Adjacent to Parcel 531622000020 and 531622000010. Utility access along the corridor must be maintained.

Should you have any questions or concerns, please do not hesitate to contact Greyson Malone at 386-322-3418.

Sincerely,

Joshua Zehnder
Engineering Lead



To:

Jessica Gow
149 South Ridgewood Ave, Suite 700
Daytona Beach, FL 32114
Email: Jessica.Gow@CobbCole.com

March 17, 2023

This is a "Letter of No Objection" to the requested vacation of plat "additional area" indicated on "SEE ATTACHED", located on property in Daytona Beach, Florida. Please accept this letter as notification.

- Fraile St (Adjacent to Parcel 531622000020 and 531622000010 Partial Right-of-Way Vacation

Sincerely,
Darrell Broom
AT&T Engineer
1500 Herbert St
Port Orange, FL 32129
c. (404) 285-0458

From: Cruz, Stewart <SCruz@cityofdbbs.org>
Sent: Thursday, March 30, 2023 5:37 PM
To: Jessica Gow <jessica.gow@cobbcole.com>
Subject: Fraile St Request for Release/No Objection

Hello Jessica.

Thank you for your request for a "letter of no objection" dated March 16, 2023 regarding a utility release on Fraile Street in conjunction with a forthcoming partial ROW vacation request. The city currently has gravity main sewer lines in the ground of the subject area. Because the decision to release interest in the subject area is tied to the aforementioned ROW vacation request, which is ultimately a legislative decision, staff cannot issue the requested letter. Instead, this requested release will be considered by the City Commission together with the vacation application in its entirety when submitted.

If you have any questions please feel free to contact me at your convenience.

Thank you.

Stewart Cruz, AICP | Community Services Director

City of Daytona Beach Shores

2990 S. Atlantic Avenue

Daytona Beach Shores, FL 32118

Tel. 386-763-5361

Website: www.dbshores.org

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.



"Life is Better Here"



SCALE: 1" = 500'



BUILDING SETBACKS:

PARKING REQUIRED: 6,537 SF X 1 SPACE / 250 SF = 26 SPACES
PARKING PROVIDED: 26 SPACES + 5 CITY BEACH SPACES

CONCEPTUAL PLAN																				NO.	DATE	APPR.	REVISION
FRAILE ST GIFT SHOP																							
DAYTONA BEACH SHORES, FL																							
PROJECT NO. 1568										1 OF 1										1568CON			
										MARK DOWST & ASSOCIATES, INC. ENGINEERS * PLANNERS * SURVEYORS 1B 4335 536 N. HALIFAX AVENUE, SUITE # 100 * DAYTONA BEACH, FLORIDA 32118 * (386) 258-7999										DATE 12-03-2021			
SCALE 1"=20'	DESIGNED	LHD	DRAWN	LAT	CHECKED	MSD	BY	DATE															

Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City of Daytona Beach Shores has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City of Daytona Beach Shores may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

Proposed ordinance’s title/reference:

ORDINANCE 2024-02

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, VACATING AND ABANDONING A PORTION (0.018 ACRES) OF THE FRAILE STREET (ALLEY PER PLAT) RIGHT-OF-WAY TWENTY FEET (20’) IN WIDTH, AS SHOWN ON THE PLAT OF MCKEACHIE SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 261 AND AMSTRONG SUBDIVISION, AS RECORDED IN MAP BOOK 9, PAGE 280, ALL OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; PROVIDING FOR CONDITIONS AND THE TAKING OF IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

Applicable Exemptions: None of the below exemptions are applicable to Ordinance 2024-02

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - ☐ Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
 - ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Business Impact Estimate:

The City of Daytona Beach Shores hereby publishes the following information:

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

Proposed Ordinance 2024-02 serves to protect the public health, safety, morals and welfare by vacating a portion (5,065 square feet) of the Fraile Street right of way for the future redevelopment of the property at 2000 S. Atlantic Avenue. The City will gain, a public utility easement, a public access easement and five off beach parking spaces subject to the vacation of right of way.

- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

N/A

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

N/A

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be**

imposed on businesses to cover such costs:

N/A

3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:

This ordinance will not directly impact any businesses. The ordinance seeks to vacate a portion of right of way owned and maintained by the City. The property owner of 2000 S. Atlantic Avenue (B & Y Inc.) will be responsible for providing utility and public access easements over the property along with five off beach parking spaces.

4. Additional information the governing body determines may be useful (if any):

None

Note: The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.



CITY COMMISSION AGENDA MEMORANDUM JANUARY 9, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission
FROM: Stewart Cruz, Community Services Director
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Ordinance 2024-03: Sewer Development Impact Fee

SYNOPSIS:

Ordinance 2024-03, if adopted, will provide that the sewer treatment services development fee (impact fee for sewage treatment) will automatically be revised to conform with the fee set by Port Orange to be charged in the City of Daytona Beach Shores. The city collects this fee and passes it on to the City of Port Orange, since it is that city that provides sewage treatment for wastewater from Daytona Beach Shores. The fee is charged to new users of the city's sanitary sewer system in order to finance the cost (to Port Orange) of capital improvements needed to facilitate the orderly expansion of the of the wastewater treatment system. There are two fees that are charged to new wastewater customers: (1) sewer collection service development fee, imposed by the City of Daytona Beach Shores, and (2) sewer treatment service development fee, imposed by the City of Port Orange. Recently, the City of Port Orange increased its sewer treatment service development fee for new development within its service area, which includes the city limits of the City of Daytona Beach Shores.

FISCAL IMPACT STATEMENT:

This change should not have any fiscal impact on the city since it will just make more efficient the adoption of changes in impact fee rates imposed by the City of Port Orange for sewage treatment.

BACKGROUND:

The City of Port Orange provides sewage treatment of wastewater from the City of Daytona Beach Shores, and the City of Daytona Beach Shores provides the collection system for the wastewater.

LEGAL REVIEW:

The City Attorney has reviewed and approved this Ordinance.

RECOMMENDATION:

Staff recommends approval of Ordinance 2024-03 as presented.

SUGGESTED MOTION:

I move to approve Ordinance 2024-03 on first reading as presented.

- ATTACHMENT:**
1. Ord. 2024-03 Sewer Development Impact Fee
 2. Ordinance 2024-03 - Business Impact Estimate (2)

ORDINANCE 2024-03

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA RELATING TO SEWER SERVICE, AMENDING THE MUNICIPAL CODE OF ORDINANCES, APPENDIX “G”, LAND DEVELOPMENT CODE, SECTION 12-4.36 ENTITLED “DEVELOPMENT FEE (IMPACT FEE.),” PROVIDING FOR THE AMENDMENT OF SEWER TREATMENT SERVICE DEVELOPMENT FEE (IMPACT FEE) TO COINCIDE WITH THE RATES ESTABLISHED FROM TIME TO TIME BY THE CITY OF PORT ORANGE FOR SUCH RATES AS APPLICABLE TO THE CITY OF DAYTONA BEACH SHORES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; 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, the City of Daytona Beach Shores administers a sewer development (impact) fee on new users of the city’s sanitary sewer system in order to finance the cost of capital improvements needed to facilitate the orderly expansion of the city’s wastewater collection system; and

WHEREAS, the Daytona Beach Shores sewer development (impact) fee has two components, (1) sewer collection service development fee, imposed by the City of Daytona Beach Shores, and (2) sewer treatment service development fee, imposed by the City of Port Orange, and

WHEREAS, from time to time, the City of Port Orange amends its sewer treatment service development fee for new development within its service area, which includes the city limits of the City of Daytona Beach Shores; and

WHEREAS, the City of Port Orange from time to time, after an expert analysis, establishes new rates for sewer treatment service development fees specific to the City of Daytona Beach Shores, and the most recent rate becomes effective April 1, 2024; and

WHEREAS, providing for the automatic amendment of the city’s sewer development (impact) fee component relating to treatment (the sewer treatment service development fee) when such fee specific to Daytona Beach Shores is adopted by the City

of Port Orange provides for efficiency and improved responsiveness to fee changes by the City of Port Orange; and

WHEREAS, the City Commission of the City of Daytona Beach Shores finds this Ordinance is in the best interest and welfare of the citizens; and

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

WHEREAS, the recitals to this Ordinance (whereas clauses) are adopted as the legislative findings and intent of the City Commission of the City of 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:

SECTION ONE. LEGISLATIVE FINDINGS AND INTENT.

(a). The City Commission of the City of Daytona Beach Shores hereby adopts the above Whereas clauses, and the city staff report relating to this Ordinance as additional legislative findings which shall not be codified as a part of this Ordinance.

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

SECTION TWO. Section 12-4.36, Land Development Code, Chapter 12, Appendix “G”, Code of Ordinances of the City of Daytona Beach Shores, entitled “Development Fee (Impact Fee),” is amended to read as follows:

12-4.36. Development Fee (Impact Fee).

1. Purpose of Section and Method of Finance.

a. This section establishes procedures to facilitate the orderly expansion of the city's wastewater collection system.

b. In order to finance these capital improvements, several combined methods of financing will be necessary, one of which is a development fee defined as "a new building's contribution toward its equitable share of the cost of capital improvements required to serve new users."

2. Development Fee Review. The development fee amount set by the city (the sewer collection service development fee) shall be reviewed in August of every even year in order to determine if the cost of system improvements necessitates a change in the amount of the fee. The development fee amount set by the City of Port Orange (the

sewer treatment service development fee) shall be reviewed by the City of Port Orange as deemed appropriate by the City of Port Orange.

3. Fee Schedule - .

There is hereby imposed a development fee (the sewer collection service development fee) based on the city commission's determination of the equitable portion of the cost of financing the extension of the collection system upon the equivalent living unit responsible for the need for additional system financing. The sewer collection service development fees shall be as follows:

a. For each equivalent living unit (E.L.U.) connected to the system:

Sewer collection service development fee: \$644.00.

~~Sewer treatment service development fee: \$956.00~~

~~Total impact fee: \$1,600.00.~~

b. The sewer treatment service development fee shall be an amount equal to that set from time to time by the City of Port Orange for the sewer treatment service development fees as applicable to the City of Daytona Beach Shores.

~~c~~b. Properties currently connected to the River Point Sewer System shall not be required to pay an impact fee upon their becoming new retail customers of the City of Daytona Beach Shores. Properties adjacent to this sewer system that are either undeveloped or are not connected to the existing sewer system on the effective date of this ordinance shall be required to pay the total impact fee listed in a. above before obtaining a building permit, requesting a connection, or being required by provisions of this ordinance to connect to the sewer system.

~~d~~e. Each equivalent living unit occasioned by changes in property usage subsequent to the effective date of this section shall be subject to a development fee computed in accordance with the foregoing criteria.

4. Imposing Fee; When Payable; Penalty for Nonpayment.

a. The above and foregoing fees shall be paid in full with the purchase of the building permit and will be imposed on every equivalent living unit (E.L.U.) connected to the sewer system whether those units are new or existing and inside or outside the city limits.

b. The person applying for the issuance of a building permit shall pay the required water and sewer development (impact) fee prior to the issuance of a building permit and no building permit for any activity requiring payment of a development (impact) fee pursuant to this chapter [section] shall be issued unless and until the water and sewer development (impact) fee hereby required has been paid. Once paid, such fees shall not be refundable.

5. Use of Proceeds.

a. The proceeds accumulated by the City of Daytona Beach Shores for the sewer collection service development fee will be used only for the extension and enlargement of the primary sanitary sewerage system.

b. The proceeds accumulated from the sewer treatment service development fee will be forwarded to the City of Port Orange as specified in the sewer treatment agreement and addendum dated November 12, 1984, as amended, between the cities of Port Orange and Daytona Beach Shores.

6. *Trust Fund.* There is hereby established a trust fund, designated as "Sewer Collection Service Development Fee Capital Improvement Trust Fund for the Extension of Primary Wastewater System," wherein all sewer collection service development fees shall be deposited to be held in a separate account used only for the purpose of the extension and enlargement of the City of Daytona Beach Shores primary wastewater collection and treatment system. Funds may be disbursed from this account in the general way pursuant to the charter with the added requirements of acquiring approval of the city's consulting engineer.

7. *Reserved.*

8. *Development Fees in Addition to Other Fees; Terms.* The development fees herein described shall be in addition to other fees provided for in this section.

SECTION THREE: IMPLEMENTING ADMINISTRATIVE ACTIONS.

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative policies.

SECTION FOUR: SAVINGS.

The prior actions of the City of Daytona Beach Shores relating to the collection, imposition, establishment or other action relative to sewer development (impact) fees or any other similar matters and any other fees, charges, rates or any other similar matters by the City and the establishment of fees, charges, rates or any other similar matters by the City, and any and all matters relating thereto, are hereby ratified and affirmed.

SECTION FIVE: CODIFICATION.

The provisions of this Ordinance 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 re-lettered 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 Three, Four, Five, Six, Seven and Eight shall not be codified.

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 become effective upon its 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 _____, 2024.

Adopted on second reading this _____ day of _____, 2024.

Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City of Daytona Beach Shores has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City of Daytona Beach Shores may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

Proposed ordinance’s title/reference:

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA RELATING TO SEWER SERVICE, AMENDING THE MUNICIPAL CODE OF ORDINANCES, APPENDIX “G”, LAND DEVELOPMENT CODE, SECTION 12-4.36 ENTITLED “DEVELOPMENT FEE (IMPACT FEE),” PROVIDING FOR THE AMENDMENT OF SEWER TREATMENT SERVICE DEVELOPMENT FEE (IMPACT FEE) TO COINCIDE WITH THE RATES ESTABLISHED FROM TIME TO TIME BY THE CITY OF PORT ORANGE FOR SUCH RATES AS APPLICABLE TO THE CITY OF DAYTONA BEACH SHORES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Applicable Exemptions:

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;

- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - ☐ Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
 - ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Business Impact Estimate:

The City of Daytona Beach Shores hereby publishes the following information:

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

Ordinance 2024-03 serves to protect the public health, safety, morals and welfare by providing for the automatic amendment of the city's sewer development (impact) fee component, for new development, relating to treatment (the sewer treatment service development fee) when such fee specific to Daytona Beach Shores is adopted by the City of Port Orange. This amendment provides for efficiency and improved responsiveness to fee changes by the City of Port Orange.

- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

Impact fees relate to new developments. It is impossible to determine the number of new developments.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

There are no new fees or charges associated with Ordinance 2024-03.

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:**

There will be no regulatory costs associated with Ordinance 2024-03.

3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:

Ordinance 2024-03 will have no impact on businesses in the City of Daytona Beach Shores.

4. Additional information the governing body determines may be useful (if any):

None

Note: *The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.*



PLANNING & ZONING BOARD AGENDA MEMORANDUM JANUARY 9, 2024 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Noel Eaton, Planner

SUBJECT: Ordinance 2024-04: Daytona Beach Shores, LLC Development Agreement - 3411 S. Atlantic Avenue-Serena by the Shores.

SYNOPSIS:

NOTE: The Cobb & Cole law firm, for and on behalf of the applicant, Daytona Beach Shores, LLC, has requested a continuance of this item to the 6:00pm February 27, 2024 City Commission Meeting.

Ordinance 2024-04, if adopted, would approve a Development Agreement ("Agreement") between the City of Daytona Beach Shores and Daytona Beach Shores, LLC to permit the development of the property located at 3411 S. Atlantic Avenue (**Exhibit A**) for the development of an 86 unit, 18 story residential multifamily condominium building with associated parking garage, 6,945 square feet of retail/restaurant, and 9,475 square feet of beach club accessory uses. Among other things, the development agreement addresses the site development concept and entitlements.

The agreement also proposes an economic development incentive request by the applicant. However, the economic development incentive request is subject to the sole jurisdiction of the City Commission and, as such, is not covered in this report.

If the ordinance is adopted, the applicant will subsequently submit detailed site development plans to the City for review. These site development plans will require public hearings for a recommendation and approval by the Planning and Zoning Board and the City Commission, respectively.

FISCAL IMPACT STATEMENT:

BACKGROUND:

I. SUMMARY BACKGROUND

Ordinance 2024-04, if adopted, would approve a Development Agreement ("Agreement") between the City of Daytona Beach Shores and Daytona Beach Shores, LLC to permit the development of the property located at 3411 S. Atlantic Avenue (**Exhibit A**) for the development of an 86 unit, 18 story residential multifamily condominium building with associated parking garage, 6,945 square feet of

retail/restaurant, and 9,475 square feet of beach club accessory uses. The development agreement addresses the site development concept and entitlements.

The agreement also proposes an economic development incentive request by the applicant. However, the economic development incentive request is subject to the sole jurisdiction of the City Commission and, as such, is not covered in this report.

If the ordinance is adopted, the applicant will subsequently submit detailed site development plans to the City for review. These site development plans will require public hearings for a recommendation and approval by the Planning and Zoning Board and the City Commission, respectively.

II. PROPERTY DESCRIPTION

The subject property is located on the east side of the 3400 block of S. Atlantic Avenue, the second parcel north of the Dunlawton Boulevard right-of-way. The parcel has been vacant for an estimated 18 years. The property is approximately 1.04 upland acres and 0.39 acres east of the bulkhead line (**Exhibit A**).

III. PROPOSED AGREEMENT (PLANNING & DEVELOPMENT ONLY)

The planning and development highlights of the proposed Agreement are:

1. Development Permitted: The Agreement provides a general development framework that would facilitate the development of an 86 unit, 18-story residential multifamily condominium building with associated parking garage, 6,945 square feet of retail/restaurant, and 9,475 square feet of beach club accessory uses. The final site plan and development may vary provided the development remains in substantial compliance with the framework. Any substantial changes will require City Commission approval.
2. Density: Measured from the Mean High Water Line.
3. Agreement Duration: Three (3) years for building permit issuance and payment of permit fees for the development and seven (7) years to receive a final certificate of occupancy.
4. Deviations: To realize number 1 above, eleven (11) deviations from the City's Land Development Code are requested and have been summarized in the Planning Analysis (**Exhibit D**).
5. Administrative Adjustment: City Staff may allow for modifications of up to 10% to any of the dimensional or landscaping requirements. This provision and staff authority excludes building height, density and other standards regulated by the Comprehensive Plan.

IV. PLANNING AND ZONING BOARD

On December 11, 2024, the Planning and Zoning Board recommended approval of the planning components of the subject development agreement.

V. DUE PUBLIC NOTICE

Evidence of due public notice has been submitted to the City Clerk.

LEGAL REVIEW:

RECOMMENDATION:

Approval of the requested continuance.

SUGGESTED MOTION:

I move to approve the requested continuance of this item to the 6:00pm February 27, 2024, City Commission meeting.

ATTACHMENT: None



**CITY COMMISSION AGENDA MEMORANDUM
JANUARY 9, 2024 AGENDA**

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Resolution 2024-02 Adopting the 2023 Emergency Management Services Statewide Mutual Aid Agreement

SYNOPSIS:

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

I move to adopt Resolution 2024-02 on first reading.

ATTACHMENT:

1. Res 2024-02 EMS Statewide Mutual Aid Agreement
2. EMS Mutual Aid Agreement 2023 w Sig Page

RESOLUTION NO. 2024-02

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
DAYTONA BEACH SHORES, FLORIDA, ADOPTING THE 2023
STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT
SERVICES STATEWIDE MUTUAL AID AGREEMENT**

WHEREAS, the State of Florida Emergency Management Act, Chapter 252, Florida Statutes, authorizes the State and its political subdivisions to provide emergency aid and assistance in the event of a disaster or emergency; and

WHEREAS, the statutes also authorize the State to coordinate the provision of any equipment, services, or facilities owned or organized by the State or its political subdivisions for use in the affected area upon the request of the duly constituted authority of the area; and

WHEREAS, this Resolution authorizes the request, provision, and receipt of interjurisdictional mutual assistance in accordance with the Emergency Management Act, Chapter 252, Florida Statutes, among political subdivisions within the State.

NOW, THEREFORE, be it resolved by the City Commission of the City of Daytona Beach Shores, Florida, that in order to maximize the prompt, full and effective use of resources of all participating governments in the event of an emergency or disaster we hereby adopt the Statewide Mutual Aid Agreement, which is attached hereto and incorporated by reference.

I / We certify that the foregoing is an accurate copy of the resolution adopted by the **CITY OF DAYTONA BEACH SHORES, FLORIDA**

By: _____
Nancy Miller, Mayor

By: _____
Kurt Swartzlander, City Manager

ATTEST:

By: _____
Cheri Schwab, City Clerk

APPROVED AS TO FORM AND LEGALITY:

By: _____
Vose Law Firm, City Attorney

Passed, adopted, and executed on this _____ day of _____, 2024.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

STATEWIDE MUTUAL AID AGREEMENT - 2023

This Agreement is an acknowledgment of receipt by the Florida Division of Emergency Management ("the Division") and the local government ("Participating Party") signing this Agreement. Execution of this agreement replaces all previous iterations and is active until a new agreement is drafted and requested by The Division.

This Agreement is based on the existence of the following conditions:

- A. The State of Florida is vulnerable to a wide range of emergencies and disasters that are likely to cause the disruption of essential services and the destruction of the infrastructure needed to deliver those services.
- B. Such emergencies and disasters often exceed the emergency response and recovery capabilities of any one county or local government.
- C. Such incidents may also give rise to unusual and unanticipated physical and technical needs which a local government cannot meet with existing resources, but that other local governments within the State of Florida may be able to provide.
- D. The Emergency Management Act, chapter 252, *Florida Statutes*, provides each local government of the state the authority to develop and enter into mutual aid agreements within the state for reciprocal emergency aid in case of emergencies too extensive to be dealt with unassisted, and through such agreements ensure the timely reimbursement of costs incurred by the local governments which render such assistance.
- E. Pursuant to chapter 252.32, *Florida Statutes*, the Division renders mutual aid among the political subdivisions of the state to carry out emergency management functions and responsibilities.
- F. Pursuant to chapter 252, *Florida Statutes*, the Division has the authority to coordinate and direct emergency management assistance between local governments and concentrate available resources where needed.

Based on the existence of the foregoing conditions, the Parties agree to the following articles:

ARTICLE I: DEFINITIONS

As used in this Agreement, the following expressions shall have the following meanings:

- A. The "Agreement" is this Agreement, which shall be referred to as the Statewide Mutual Aid Agreement ("SMAA").



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- B. The “Division” is the Florida Division of Emergency Management.
- C. A “Requesting Party” to this Agreement is a Participating Party who requests assistance under this agreement.
- D. An “Assisting Party” to this Agreement is a Participating Party who provides assistance to a Requesting Party under this agreement.
- E. The “Period of Assistance” is the time during which an Assisting Party renders assistance to a Requesting Party under this agreement and includes the time necessary for the resources and personnel of the Assisting Party to travel to the place specified by the Requesting Party and the time necessary to return to their place of origin.
- F. A “Mission” is a documented emergency response activity performed during a Period of Assistance, usually in reference to one operational function or activity.
- G. A “local government” is any educational district, special district, or any entity that is a “local governmental entity” within the meaning of section 11.45(1)(g), *Florida Statutes*.
- H. An “educational district” is any school district within the meaning of section 1001.30, *Florida Statutes*, and any Florida College System Institution or State University within the meaning of section 1000.21, *Florida Statutes*.
- I. A “special district” is any local or regional governmental entity which is an independent special district within the meaning of section 189.012(3), *Florida Statutes*, established by local, special, or general act, or by rule, ordinance, resolution, or interlocal agreement.
- J. A “tribal council” is the respective governing bodies of the Seminole Tribe of Florida and Miccosukee Tribe of Indians recognized as special improvement district by section 285.18(1), *Florida Statutes*.
- K. An “interlocal agreement” is any agreement between local governments within the meaning of section 163.01(3)(a), *Florida Statutes*.
- L. A “Resource Support Agreement” as used in this Agreement refers to a supplemental agreement of support between a Requesting Party and an Assisting Party.
- M. “Proof of work” as used in this Agreement refers to original and authentic documentation of a single individual or group of individuals’ emergency response activity at a tactical level.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- N. "Proof of payment" as used in this Agreement refers to original and authentic documentation of an emergency response expenditure made by an Assisting Party.
- O. A "Reimbursement Package" as used in this Agreement refers to a full account of mission response documentation supported by proof of work and proof of payment.
- P. Any expressions not assigned definitions elsewhere in this Agreement shall have the definitions assigned them by the Emergency Management Act, Chapter 252, *Florida Statutes*.

ARTICLE II: APPLICABILITY OF THE AGREEMENT

Any Participating Party, including the Division, may request assistance under this Agreement for a "major disaster" or "catastrophic disaster" as defined in section 252.34, *Florida Statutes*, minor disasters, and other such emergencies as lawfully determined by a Participating Party.

ARTICLE III: INVOCATION OF THE AGREEMENT

In the event of an emergency or anticipated emergency, a Participating Party may request assistance under this Agreement from any other Participating Party or the Division if, in the judgement of the Requesting Party, its own resources are inadequate to meet the needs of the emergency or disaster.

- A. Any request for assistance under this Agreement may be oral, but within five (5) calendar days must be confirmed in writing by the Requesting Party. All requests for assistance under this Agreement shall be transmitted by the Requesting Party to another Participating Party or the Division. If the Requesting Party transmits its request for Assistance directly to a Participating Party other than the Division, the Requesting Party and Assisting Party shall keep the Division advised of their activities.
- B. The Division shall relay any requests for assistance under this Agreement to such other Participating Parties as it may deem appropriate and coordinate the activities of the Assisting Parties to ensure timely assistance to the Requesting Party. All such activities shall be carried out in accordance with the State's Comprehensive Emergency Management Plan.

ARTICLE IV: RESPONSIBILITIES OF REQUESTING PARTIES

To the extent practicable, all Requesting Parties shall provide the following information to their respective county emergency management agency, the Division, and the intended Assisting Party or Parties. In providing such information, Requesting Parties should utilize Section I of the



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

Resource Support Agreement (RSA) Form, available via the [Division approved documents SharePoint site](#)¹.

- A. A description of the Mission to be performed by the Assisting Party;
- B. A description of the resources and capabilities needed to complete the Mission successfully;
- C. The location, date, and time personnel and resources from the Assisting Party should arrive at the incident site, staging area, facility, or other location designated by the Requesting Party;
- D. A description of the health, safety, and working conditions expected for deploying personnel;
- E. Lodging and meal availability;
- F. Any logistical requirements;
- G. A description of any location or facility outside the territorial jurisdiction of the Requesting Party needed to stage incoming resources and personnel;
- H. The location date, and time for personnel of the Requesting Party to meet and receive the personnel and equipment of the Assisting Party; and
- I. A technical description of any communications equipment needed to ensure effective information sharing between the Requesting Party, any Assisting Parties, and all relevant responding entities.

ARTICLE V: RESPONSIBILITIES OF ASSISTING PARTIES

Each Party shall render assistance under this Agreement to any Requesting Party to the extent practicable that its personnel, equipment, resources, and capabilities can render assistance. If upon receiving a request for assistance under this Agreement a Party determines that it has the capacity to render some or all of such assistance, it shall provide the following information without delay to the Requesting Party, the Division, and the Assisting Party's County emergency management agency. In providing such information, the Assisting Party should utilize the Section II of the Resource Support Agreement (RSA) Form, available via the [Division approved documents SharePoint site](#).

¹ FDEM approved documents such as activity logs and mutual aid forms can be found at:
https://portal.floridadisaster.org/projects/FROC/FROC_Documents/Forms/AllItems.aspx?View=%7B6F3CF7BD%2DC0A4%2D4BE2%2DB809%2DC8009D7D0686%7D



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- A. A description of the personnel, equipment, supplies, services and capabilities it has available, together with a description of the qualifications of any skilled personnel;
- B. An estimate of the time such personnel, equipment, supplies, and services will continue to be available;
- C. An estimate of the time it will take to deliver such personnel, equipment, supplies, and services to the location(s) specified by the Requesting Party;
- D. A technical description of any communications and telecommunications equipment available for timely communications with the Requesting Party and other Assisting Parties;
- E. The names and contact information of all personnel whom the Assisting Party has designated as team leaders or supervisors; and
- F. An estimated cost for the provision of assistance.

ARTICLE VI: RENDITION OF ASSISTANCE

The Requesting Party shall afford the emergency response personnel of all Assisting Parties, while operating within the jurisdictional boundaries of the Requesting Party, the same powers, duties, rights, and privileges, except that of arrest unless specifically authorized by the Requesting Party, as are afforded the equivalent emergency response personnel of the Requesting Party. Emergency response personnel of the Assisting Party will remain under the command and control of the Assisting Party, but during the Period of Assistance, the resources and responding personnel of the Assisting Party will perform response activities under the operational and tactical control of the Requesting Party.

- A. Unless otherwise agreed upon between the Requesting and Assisting Party, the Requesting Party shall be responsible for providing food, water, and shelter to the personnel of the Assisting Party. For Missions performed in areas where there are insufficient resources to support responding personnel and equipment throughout the Period of Assistance, the Assisting Party shall, to the fullest extent practicable, provide their emergency response personnel with the equipment, fuel, supplies, and technical resources necessary to make them self-sufficient throughout the Period of Assistance. When requesting assistance, the Requesting Party may specify that Assisting Parties send only self-sufficient personnel and resources but must specify the length of time self-sufficiency should be maintained.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

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- B. Unless the Requesting Party has specified the contrary, it shall, to the fullest extent practicable, coordinate all communications between its personnel and the responding personnel of the Assisting Parties, and shall determine and share the frequencies and other technical specifications of all communications equipment to be used, as appropriate, with the deployed personnel of the Assisting Parties.
- C. Personnel of the Assisting Party who render assistance under this Agreement shall receive the usual wages, salaries, and other compensation as are normally afforded to personnel for emergency response activities within their home jurisdiction, and shall have all the immunities, rights, interests, and privileges applicable to their normal employment. If personnel of the Assisting Party hold local licenses or certifications limited to the jurisdiction of issue, then the Requesting Party shall recognize and honor those licenses or certifications for the duration of the Period of Assistance.

ARTICLE VII: REIMBURSEMENT

After the Period of Assistance has ended, the Assisting Party shall have 45 days to develop a full reimbursement package for services rendered and resources supplied during the Period of Assistance. All expenses claimed to the Requesting Party must have been incurred in direct response to the emergency as requested by the Requesting Party and must be supported by proof of work and proof of payment.

To guide the proper documentation and accountability of expenses, the Assisting Party should utilize the Claim Summary Form, available via the [Division approved documents SharePoint site](#) as a guide and summary of expense to collect information to then be formally submitted for review by the Requesting Party.

To receive reimbursement for assistance provided under this agreement, the Assisting Party shall provide, at a minimum, the following supporting documentation to the Requesting Party unless otherwise agreed upon between the Requesting and Assisting Parties:

- A. A complete and authentic description of expenses incurred by the Assisting Party during the Period of Assistance;
- B. Copy of a current and valid Internal Revenue Service W-9 Form;
- C. Copies of all relevant payment and travel policies in effect during the Period of Assistance;
- D. Daily personnel activity logs demonstrating emergency response activities performed for all time claimed (for FDEM reimbursement Division approved activity logs will be required for personnel activity claims);



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- E. Official payroll and travel reimbursement records for all claimed personnel expenses;
- F. Neat and comprehensive fringe benefit calculations for each position class or category of claimed personnel;
- G. Written justification for all additional expenses/purchases incurred during the Period of Assistance;
- H. Proof of payment for additional/miscellaneous expenses incurred during the Period of Assistance
- I. Equipment activity logs demonstrating equipment use and operation in support of emergency response activities for all time claimed (for FDEM reimbursement Division approved forms will be required for equipment activity claims);
- J. Proof of reimbursement to all employees who incurred emergency response expenses with personal money;
- K. Justification for equipment repair expenses; and
- L. Copies of any applicable supporting agreements or contracts with justification.

If a dispute or disagreement regarding the eligibility of any expense arises, the Requesting Party, Assisting Party, or the Division may elect binding arbitration. If binding arbitration is elected, the Parties must select as an arbitrator any elected official of another Participating Party, or any other official of another Participating Party whose normal duties include emergency management, and the other Participating Party shall also select such an official as an arbitrator, and the arbitrators thus chosen shall select another such official as a third arbitrator.

The three (3) arbitrators shall convene by teleconference or videoconference within thirty (30) calendar days to consider any documents and any statements or arguments by the Division, the Requesting Party, or the Assisting Party concerning the protest, and shall render a decision in writing not later than ten (10) business days after the close of the hearing. The decision of a majority of the arbitrators shall bind the parties and shall be final.

If the Participating Parties do not elect binding arbitration, this agreement and any disputes arising thereunder shall be governed by the laws of the State of Florida and venue shall be in Leon County, Florida. Nothing in this Agreement shall be construed to create an employer-employee relationship or a partnership or joint venture between the participating parties. Furthermore, nothing contained herein shall constitute a waiver by either Party of its sovereign immunity or the provisions of section 768.28, Florida Statutes. Nothing herein shall be construed as consent by either Party to be sued by third parties.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

ARTICLE VIII: COST ELIGIBLE FOR REIMBURSEMENT

The costs incurred by the Assisting Party under this Agreement shall be reimbursed as needed to make the Assisting Party whole to the fullest extent practicable.

- A. Employees of the Assisting Party who render assistance under this Agreement shall be entitled to receive from the Assisting Party all their usual wages, salaries, and any and all other compensation for mobilization, hours worked, and demobilization. Such compensation shall include any and all contributions for insurance and retirement, and such employees shall continue to accumulate seniority at the usual rate. As between the employees and the Assisting Party, the employees shall have all the duties, responsibilities, immunities, rights, interests, and privileges incident to their usual employment. The Requesting Party shall reimburse the Assisting Party for these costs of employment.
- B. The costs of equipment supplied by the Assisting Party shall be reimbursed at the rental rate established in FEMA's Schedule of Equipment, or at any other rental rate agreed to by the Requesting Party. In order to be eligible for reimbursement, equipment must be in actual operation performing eligible work. The labor costs of the operator are not included in the rates and should be approved separately from equipment costs. The Assisting Party shall pay for fuels, other consumable supplies, and repairs to its equipment as needed to keep the equipment in a state of operational readiness. Rent for the equipment shall be deemed to include the cost of fuel and other consumable supplies, maintenance, service, repairs, and ordinary wear and tear. With the consent of the Assisting Party, the Requesting Party may provide fuels, consumable supplies, maintenance, and repair services for such equipment at the site. In that event, the Requesting Party may deduct the actual costs of such fuels, consumable supplies, maintenance, and services from the total costs otherwise payable to the Assisting Party. If the equipment is damaged while in use under this Agreement and the Assisting Party receives payment for such damage under any contract of insurance, the Requesting Party may deduct such payment from any item or items billed by the Assisting Party for any of the costs for such damage that may otherwise be payable.
- C. The Requesting Party shall pay the total costs for the use and consumption of any and all consumable supplies delivered by the Assisting Party for the Requesting Party under this Agreement. In the case of perishable supplies, consumption shall be deemed to include normal deterioration, spoilage, and damage notwithstanding the exercise of reasonable care in its storage and use. Supplies remaining unused shall be returned to the Assisting Party in usable condition upon the close of the Period of Assistance, and the Requesting Party may deduct the cost of such returned supplies from the total costs billed by the Assisting Party for such supplies. If the Assisting Party agrees, the Requesting Party may also replace any and all used consumable supplies with like



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

supplies in usable condition and of like grade, quality and quantity within the time allowed for reimbursement under this Agreement.

- D. The Assisting Party shall keep records to document all assistance rendered under this Agreement. Such records shall present information sufficient to meet the audit requirements specified in the regulations of FEMA and any applicable circulars issued by the State of Florida. Upon reasonable notice, the Assisting Party shall make its records available the Requesting Party for inspection or duplication between 8:00 a.m. and 5:00 p.m. on all weekdays, except for official holidays.

ARTICLE IX: INSURANCE

Each Participating Party shall determine for itself what insurance to procure, if any. With the exceptions in this Article, nothing in this Agreement shall be construed to require any Participating Party to procure insurance.

- A. Each Participating Party shall procure employers' insurance meeting the requirements of the Workers' Compensation Act, as amended, affording coverage for any of its employees who may be injured while performing any activities under the authority of this Agreement, and shall be provided to each Participating Party.
- B. Any Participating Party that elects additional insurance affording liability coverage for any activities that may be performed under the authority of this Agreement shall be provided to each Participating Party.
- C. Subject to the limits of such liability insurance as any Participating Party may elect to procure, nothing in this Agreement shall be construed to waive, in whole or in part, any immunity any Participating Party may have in any judicial or quasi-judicial proceeding.
- D. Each Participating Party which renders assistance under this Agreement shall be deemed to stand in the relation of an independent contractor to all other Participating Parties and shall not be deemed to be the agent of any other Participating Party.
- E. Nothing in this Agreement shall be construed to relieve any Participating Party of liability for its own conduct and that of its employees.
- F. Nothing in this Agreement shall be construed to obligate any Participating Party to indemnify any other Participating Party from liability to third parties.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

ARTICLE X: GENERAL REQUIREMENTS

Notwithstanding anything to the contrary elsewhere in this Agreement, all Participating Parties shall be subject to the following requirements in the performance of this Agreement:

- A. All Participating Parties shall allow public access to all documents, papers, letters, or other materials subject to the requirements of the Public Records Act, as amended, and made or received by any Participating Party in conjunction with this Agreement.
- B. No Participating Party may hire employees in violation of the employment restrictions in the Immigration and Nationality Act, as amended.
- C. No costs reimbursed under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Legislature of the State of Florida or any of its agencies.
- D. Any communication to the Division under this Agreement shall be sent via either email, the Division of Emergency Managements Enterprise System (DEMES), or mail to the Response Bureau, Florida Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.
- E. Any communication to a Participating Party shall be sent to the official or officials specified by that Participating Party. For the purpose of this section, any such communication may be sent by the U.S. Mail, e-mail, or other electronic platforms.

ARTICLE XI: EFFECTS OF AGREEMENT

Upon its execution by a Participating Party, this Agreement shall have the following effect with respect to that Participating Party:

- A. The execution of this Agreement by any Participating Party which is a signatory to the Statewide Mutual Aid Agreement of 1994 shall terminate the rights, interests, duties, responsibilities, and obligations of that Participating Party under the Statewide Mutual Aid Agreement of 1994, but such termination shall not affect the liability of the Participating Party for the reimbursement of any costs due under the Statewide Mutual Aid Agreement of 1994, regardless of whether such costs are billed or unbilled.
- B. The execution of this Agreement by any Participating Party which is a signatory to the Public Works Mutual Aid Agreement shall terminate the rights, interests, duties, responsibilities and obligations of that Participating Party under the Public Works Mutual Aid Agreement, but such termination shall not affect the liability of the Participating Party for the reimbursement of any costs due under the Public Works Mutual Aid Agreement,



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

regardless of whether such costs are billed or unbilled.

- C. Upon the activation of this Agreement by the Requesting Party, this Agreement shall supersede any other existing agreement between it and any Assisting Party to the extent that the former may be inconsistent with the latter.
- D. Upon its execution by any Participating Party, this Agreement will continue in effect for one (1) year from its date of execution by that Participating Party, and it shall automatically renew each year after its execution, unless within sixty (60) calendar days before the renewal date the Participating Party notifies the Division, in writing, of its intent to withdraw from the Agreement.
- E. The Division shall transmit any amendment to this Agreement by sending the amendment to all Participating Parties not later than five (5) business days after its execution by the Division. Such amendment shall take effect not later than sixty (60) calendar days after the date of its execution by the Division and shall then be binding on all Participating Parties. Notwithstanding the preceding sentence, any Participating Party who objects to the amendment may withdraw from the Agreement by notifying the Division in writing of its intent to do so within that time in accordance with section E of this Article.
- F. A Participating Party may rescind this Agreement at will after providing the other Participating Party a written SMAA withdrawal notice. Such notice shall be provided at least 30 days prior to the date of withdrawal. This 30-day withdrawal notice must be: written, signed by an appropriate authority, duly authorized on the official letterhead of the Participating Party, and must be sent via email, the Division of Emergency Managements Enterprise System (DEMES), or certified mail.

ARTICLE XII: INTERPRETATION AND APPLICATION OF AGREEMENT

The interpretation and application of this Agreement shall be governed by the following conditions:

- A. The obligations and conditions resting upon the Participating Parties under this Agreement are not independent, but dependent.
- B. Time shall be of the essence of this Agreement, and of the performance of all conditions, obligations, duties, responsibilities, and promises under it.
- C. This Agreement states all the conditions, obligations, duties, responsibilities, and promises of the Participating Parties with respect to the subject of this Agreement, and there are no conditions, obligations, duties, responsibilities, or promises other than those expressed in this Agreement.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- D. If any sentence, clause, phrase, or other portion of this Agreement is ruled unenforceable or invalid, every other sentence, clause, phrase, or other portion of the Agreement shall remain in full force and effect, it being the intent of the Division and the other Participating Parties that every portion of the Agreement shall be severable from every other portion to the fullest extent practicable. The Division reserves the right, at its sole and absolute discretion, to change, modify, add, or remove portions of any sentence, clause, phrase, or other portion of this Agreement that conflicts with state law, regulation, or policy. If the change is minor, the Division will notify the Participating Party of the change and such changes will become effective immediately; therefore, please check these terms periodically for changes. If the change is substantive, the Participating Parties may be required to execute the Agreement with the adopted changes. Any continued or subsequent use of this Agreement following the posting of minor changes to this Agreement shall signify implied acceptance of such changes.
- E. The waiver of any obligation or condition in this Agreement by a Participating Party shall not be construed as a waiver of any other obligation or condition in this Agreement.

NOTE: This iteration of the State of Florida Statewide Mutual Aid Agreement will replace all previous versions.

The Division shall provide reimbursement to Assisting Parties in accordance with the terms and conditions set forth in this Article for missions performed at the direct request of the Division. Division reimbursement eligible expenses must be in direct response to the emergency as requested by the State of Florida. All required cost estimations and claims must be executed through the DEMES Mutual Aid Portal and assisting agencies must use all required [FDEM forms](#) for documentation and cost verification. If a Requesting Party has not forwarded a request through the Division, or if an Assisting Party has rendered assistance without being requested to do so by the Division, the Division shall not be liable for the costs of any such assistance.

FDEM reserves the right to deny individual reimbursement requests if deemed to not be in direct response to the incident for which asset was requested.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the date specified below:



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

FOR ADOPTION BY A CITY

STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT

By: _____ Date: _____

Kevin Guthrie, Executive Director or
Ian Guidicelli, Authorized Designee

ATTEST:
CITY CLERK

CITY OF _____
STATE OF FLORIDA

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Approved as to Form:

By: _____

City Attorney