



# City of Daytona Beach Shores

*"Life is Better Here"*

*"A Premier, Friendly Place to Be"*

## **AGENDA CITY COMMISSION MEETING APRIL 23, 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:**
- 6. APPROVAL OF MINUTES**
  - A. City Commission Minutes April 9, 2024
- 7. CONSENT AGENDA:**
  - A. Public Safety Report - March
  - B. Community Services Department Monthly Report - March 2024

- C. Approve Shores Community Center's proposed hours of operation.
- D. Approval of Priority Sites Dune Walkover Reconstruction Agreement: Paul Culver Construction, Inc.
- E. March 2024 Executive Summary Report

**8. OLD BUSINESS:**

- A. Ordinance 2024-08: Voluntary Annexation, 3635 Cardinal Boulevard
- B. Ordinance 2024-09: Voluntary Annexation, 129 Esmeralda Avenue
- C. Ordinance 2024-10: Voluntary Annexation, 110 Van Avenue

**9. QUASI-JUDICIAL HEARING**

**10. NEW BUSINESS:**

- A. Appointment to the Volusia County Interlocal Agreement Oversight Committee for Public School Facility Planning

**11. CITY ATTORNEY COMMENTS**

**12. CITY MANAGER COMMENTS**

**13. COMMISSION COMMENTS:**

**14. AUDIENCE REMARKS/PUBLIC COMMENTS:**

**15. ITEMS RECOMMENDED FOR THE NEXT AGENDA:**

**16. ADJOURNMENT:**

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

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF DAYTONA BEACH SHORES, 2990 S. ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118, TELEPHONE NUMBER 386-7635364, CSCHWAB@CITYOFDBS.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS

OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 711 or 1 8009558771.

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

**MINUTES**  
**CITY COMMISSION MEETING**  
**April 9, 2024**  
**3000 Bellemead Drive, Daytona Beach Shores, FL 32118**

**1. CALL TO ORDER BY MAYOR**

**Present:** Mayor Nancy Miller, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky, Vice Mayor Michael Politis

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

**2. ROLL CALL BY CITY CLERK**

**3. PRAYER**

**4. PLEDGE OF ALLEGIANCE**

**5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:**

**6. APPROVAL OF MINUTES**

A. City Commission Minutes March 26, 2024

**VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER MARK CARD to Approve the City Commission Minutes of March 26, 2024.**

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

**Yes:** Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

**7. CONSENT AGENDA:**

A. General Engineering Services RFQ Selection & Authorization of City Manager to Execute Master Agreement For Continuing Professional Services

- B. Approval of St. Kitts Park Rock Revetment and Beach Access Stairs Agreement: East Coast Marine Construction & Design, Inc.

Item C was removed from the consent agenda.

**COMMISSIONER CHRIS CONOMOS moved, seconded by COMMISSIONER STEPHAN DEMBINSKY to Approve the remaining consent agenda items.**

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

**Yes:** Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

- C. Approval of Priority Sites Dune Walkover Reconstruction Agreement: Greg Reynolds Construction, LLC.

**8. OLD BUSINESS:**

**9. NEW BUSINESS:**

- A. Ordinance 2024-08: Voluntary Annexation, 3635 Cardinal Boulevard

City Attorney Vose read the ordinance by title only. Community Services Director Stewart Cruz gave a brief report. This was a voluntary annexation. The property is residential and consists of four units. Various views of the property and its location were shown. All the requirements per the Florida Statutes have been met and staff recommended approval.

**COMMISSIONER STEPHAN DEMBINSKY moved, seconded by COMMISSIONER MARK CARD to Approve Ordinance 2024-08 on first reading.**

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

**Yes:** Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

- B. Ordinance 2024-09: Voluntary Annexation, 129 Esmeralda Avenue

City Attorney Vose read the ordinance by title only. Community Services Director Stewart Cruz gave a brief report. This was a voluntary annexation. The property is a single family residence. Various views of the property and its location were shown. All the requirements per the Florida Statutes have been met and staff recommended approval.

**COMMISSIONER CHRIS CONOMOS moved, seconded by VICE MAYOR MICHAEL POLITIS to Approve Ordinance 2024-09 on first reading.**

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

**Yes:** Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

C. Ordinance 2024-10: Voluntary Annexation, 110 Van Avenue

City Attorney Vose read the ordinance by title only. Community Services Director Stewart Cruz gave a brief report. This was a voluntary annexation. The property is a single family residence. Various views of the property and its location were shown. All the requirements per the Florida Statutes have been met and staff recommended approval.

**VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER STEPHAN DEMBINSKY to Approve Ordinance 2024-10 on first reading.**

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

**Yes:** Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

**10. CITY ATTORNEY COMMENTS**

The City Attorney had no additional comments.

**11. CITY MANAGER COMMENTS**

City Manager Kurt Swartzlander announced that the state had declared construction during the turtle season would be treated the same as last year. With a valid permit, work on seawalls and walkways can continue. Community Engagement Director Nancy Maddox handed out Citizen Academy Certificates.

**12. COMMISSION COMMENTS:**

Mayor Miller requested an update on the FPL box wrapping project. Director Cruz replied that it should begin in early May. She provided information on upcoming city events. Vice Mayor Politis gave an update from the recent TPO meeting he attended. The main presentation centered around paid beach parking. Mayor Miller reminded the audience that a workshop would be held on May 14th at 4:30 pm to discuss the parking situation.

**13. AUDIENCE REMARKS/PUBLIC COMMENTS:**

Herb Stewartson from the POSD Chamber provided an update on upcoming events. Julie Odom, who lives on Cardinal Blvd. in the county, is having an issue with her neighbor. The neighbor is a city resident that has done renovations on his property that have negative effects on Ms. Odom's property. She was instructed to meet with the Building Department.

**14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:**

There were no additional items added to the next agenda.

**15. ADJOURNMENT:**

The meeting ended at 6.54 pm.

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**MAYOR  
NANCY MILLER**

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**CITY MANAGER  
KURT D. SWARTZLANDER**

**ATTEST:**

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**CITY CLERK, CHERI SCHWAB**



**CITY COMMISSION AGENDA MEMORANDUM  
APRIL 23, 2024 AGENDA**

**TO:** Honorable Mayor and Members of the City Commission

**FROM:**

**PREPARED BY:** Joanne Sweeney, Admin Asst

**SUBJECT:** Public Safety Report - March

**SYNOPSIS:**

**FISCAL IMPACT STATEMENT:**

**BACKGROUND:**

**LEGAL REVIEW:**

**RECOMMENDATION:**

**SUGGESTED MOTION:**

**ATTACHMENT:** 1. PS March monthly report



**CITY OF DAYTONA BEACH SHORES**

**DEPARTMENT OF PUBLIC SAFETY**

3050 South Atlantic Avenue

Daytona Beach Shores, Florida 32118

**Office of Director of Public Safety**

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

**MONTHLY REPORT FOR MARCH 2024**

|                               | Mar-24 | 24/YTD | Mar-23 | 23/YTD |
|-------------------------------|--------|--------|--------|--------|
| Police Related Calls          | 2,223  | 4,201  | 2,171  | 5,764  |
| Fire Related Calls            | 78     | 232    | 80     | 212    |
| Rescue Related Calls          | 88     | 220    | 62     | 162    |
| Fire Related Alarms Sounding  | 27     | 85     | 15     | 50     |
| Traffic Citations             | 237    | 535    | 256    | 557    |
| Written Warnings              | 155    | 351    | 34     | 106    |
| Building Inspections          | 52     | 177    | 70     | 185    |
| Arrests: Adults               | 29     | 83     | 30     | 113    |
| Juveniles                     | 0      | 3      | 0      | 1      |
| City Ordinance Charges        | 1      | 2      | 2      | 2      |
| Florida State Statute Charges | 31     | 100    | 59     | 197    |
| Accidents: Total              | 32     | 45     | 26     | 40     |
| Street/Highway                | 23     | 26     | 12     | 28     |
| Parking Lot                   | 9      | 19     | 14     | 19     |

**Michael Fowler, Public Safety Director**

*(Handwritten signature and date 04.01.24)*

# POLICE CALLS TOTALS BY TYPE (NO CIVIL)

DB SHORES POLICE

DATES: 2024-03-01 through 2024-03-31

LOCATION: ALL | ZONE: ALL | RD: ALL

| DESCRIPTION              | SIGNAL | TOTAL CALLS | % OF ALL CALLS | DAILY AVG |
|--------------------------|--------|-------------|----------------|-----------|
| TRAFFIC STOP             | TS     | 492         | 22.13 %        | 15.87     |
| MISCELLANEOUS LE CALL    | MISC   | 397         | 17.86 %        | 12.81     |
| EXTRA PATROL             | EP     | 362         | 16.28 %        | 11.68     |
| PROPERTY CHECK           | PRC    | 106         | 4.77 %         | 3.42      |
| DIRECTED PATROL REQUEST  | DPR    | 76          | 3.42 %         | 2.45      |
| TELEPHONE HANDLE         | THC    | 63          | 2.83 %         | 2.03      |
| MEDICAL EMERGENCY        | MED1   | 44          | 1.98 %         | 1.42      |
| RADAR                    | RADAR  | 35          | 1.57 %         | 1.13      |
| SUSP PERSON              | SPER   | 35          | 1.57 %         | 1.13      |
| SUSP INCIDENT            | SINC   | 32          | 1.44 %         | 1.03      |
| SUSPECT STOP             | SS     | 29          | 1.30 %         | 0.94      |
| FIRE ALARM               | ALARMF | 28          | 1.26 %         | 0.90      |
| SUSP VEHICLE             | SVEH   | 26          | 1.17 %         | 0.84      |
| WALK & TALK              | WT     | 26          | 1.17 %         | 0.84      |
| WALKUP                   | WALKUP | 26          | 1.17 %         | 0.84      |
| DISTURBANCE              | DIST   | 22          | 0.99 %         | 0.71      |
| MISC FIRE SERVICE CALL   | MISCF  | 21          | 0.94 %         | 0.68      |
| MVA                      | MV     | 18          | 0.81 %         | 0.58      |
| SPECIAL DETAIL           | SDL    | 18          | 0.81 %         | 0.58      |
| TRESPASSERS              | TRES   | 17          | 0.76 %         | 0.55      |
| FALL- NON EMERGENCY      | TRAU3  | 16          | 0.72 %         | 0.52      |
| ELEVATOR CALL            | ELEV   | 15          | 0.67 %         | 0.48      |
| NOISE                    | NOISE  | 14          | 0.63 %         | 0.45      |
| WELL BEING CHECK         | WBC    | 14          | 0.63 %         | 0.45      |
| INFORMATION GIVEN        | INFO   | 11          | 0.49 %         | 0.35      |
| 911 CK/OPEN LINE         | 911CK  | 10          | 0.45 %         | 0.32      |
| HIT&RUN MVA              | MVHR   | 10          | 0.45 %         | 0.32      |
| MENTALLY ILL PER         | MIP    | 10          | 0.45 %         | 0.32      |
| ROAD OBSTRUCTION         | RDOB   | 10          | 0.45 %         | 0.32      |
| ZONE ACCOUNTABILITY PATR | ZAP    | 10          | 0.45 %         | 0.32      |
| ILLEGAL PARKING          | PARK   | 9           | 0.40 %         | 0.29      |
| DOMESTIC DISTURBANCE     | DV     | 8           | 0.36 %         | 0.26      |
| DRUNK DRIVER             | DUI    | 8           | 0.36 %         | 0.26      |
| INVESTIGATION            | INV    | 8           | 0.36 %         | 0.26      |
| MVA W/ INJURIES          | MVI    | 8           | 0.36 %         | 0.26      |
| ANIMAL COMPLAINT         | AC     | 7           | 0.31 %         | 0.23      |
| ASSAULT/BATTERY          | ABAT   | 7           | 0.31 %         | 0.23      |
| BLS - MED/TRAUMA         | BLS3   | 7           | 0.31 %         | 0.23      |
| FLAG DOWN                | FLAG   | 7           | 0.31 %         | 0.23      |
| FOUND PROPERTY           | PROPF  | 7           | 0.31 %         | 0.23      |
| THEFT                    | THEFT  | 7           | 0.31 %         | 0.23      |
| TOWED VEHICLE            | TOW    | 7           | 0.31 %         | 0.23      |
| TRAUMA EMERGENCY         | TRAU1  | 7           | 0.31 %         | 0.23      |
| DISABLED VEHICLE         | DAV    | 6           | 0.27 %         | 0.19      |
| MEDICAL NON-EMERG        | MED2   | 6           | 0.27 %         | 0.19      |
| RECKLESS DRIVER          | RD     | 6           | 0.27 %         | 0.19      |

# POLICE CALLS TOTALS BY TYPE (NO CIVIL)

DB SHORES POLICE

DATES: 2024-03-01 through 2024-03-31

LOCATION: ALL | ZONE: ALL | RD: ALL

| DESCRIPTION              | SIGNAL | TOTAL CALLS | % OF ALL CALLS | DAILY AVG |
|--------------------------|--------|-------------|----------------|-----------|
| STROKE / CVA             | CVA    | 6           | 0.27 %         | 0.19      |
| SUICIDAL PERSON          | SP     | 6           | 0.27 %         | 0.19      |
| TRAUMA CRITICAL          | TRAUE  | 6           | 0.27 %         | 0.19      |
| FIGHT                    | FIGHT  | 5           | 0.22 %         | 0.16      |
| TEST LE CALL             | TEST   | 5           | 0.22 %         | 0.16      |
| WARRANT                  | WAR    | 5           | 0.22 %         | 0.16      |
| ATT TO CONTACT           | ATC    | 4           | 0.18 %         | 0.13      |
| BUSINESS ALARM           | ALARMB | 4           | 0.18 %         | 0.13      |
| DEAD PERSON              | DEAD   | 4           | 0.18 %         | 0.13      |
| JUVENILE                 | JUV    | 4           | 0.18 %         | 0.13      |
| NARCOTICS                | NARC   | 4           | 0.18 %         | 0.13      |
| UNCONSCIOUS              | UNC    | 4           | 0.18 %         | 0.13      |
| BURGLARY ALARM           | ALARM  | 3           | 0.13 %         | 0.10      |
| FLEEING DRIVER           | FLEE   | 3           | 0.13 %         | 0.10      |
| FOUND CHILD              | CHILDF | 3           | 0.13 %         | 0.10      |
| FRAUD                    | FRAUD  | 3           | 0.13 %         | 0.10      |
| SCHOOL ZONE              | SZ     | 3           | 0.13 %         | 0.10      |
| STEP ZONE                | STP    | 3           | 0.13 %         | 0.10      |
| ASSIST AGENCY            | ASSIST | 2           | 0.09 %         | 0.06      |
| DANGEROUS COND FD        | DCFD   | 2           | 0.09 %         | 0.06      |
| ESCORT                   | ESCORT | 2           | 0.09 %         | 0.06      |
| LOST PROPERTY            | PROPL  | 2           | 0.09 %         | 0.06      |
| MEDICAL UNKNOWN          | ALARMM | 2           | 0.09 %         | 0.06      |
| NE ASST- FIRE REQ        | LEO2   | 2           | 0.09 %         | 0.06      |
| REPOSSESSED VEH          | REPO   | 2           | 0.09 %         | 0.06      |
| ABANDONED VEH            | AV     | 1           | 0.04 %         | 0.03      |
| ALZHEIMERS               | ALZ    | 1           | 0.04 %         | 0.03      |
| ANIMAL BITE              | BITE   | 1           | 0.04 %         | 0.03      |
| ASSIST                   | ASST   | 1           | 0.04 %         | 0.03      |
| BURG/RESD                | BURGR  | 1           | 0.04 %         | 0.03      |
| BURGLARY                 | BURG   | 1           | 0.04 %         | 0.03      |
| DROWNING                 | DROWN  | 1           | 0.04 %         | 0.03      |
| DRUNK PERSON             | IP     | 1           | 0.04 %         | 0.03      |
| FAILURE TO PAY           | FTP1   | 1           | 0.04 %         | 0.03      |
| FIRE OUTSIDE STRUCTURE   | FOS    | 1           | 0.04 %         | 0.03      |
| HAZ COND/MAJOR INC       | HZMMI  | 1           | 0.04 %         | 0.03      |
| HIT&RUN ACC W/INJ        | MVHRI  | 1           | 0.04 %         | 0.03      |
| MISSING PERSON           | MP     | 1           | 0.04 %         | 0.03      |
| MVA MAJOR                | MVMI   | 1           | 0.04 %         | 0.03      |
| POWER LINES HAZARD       | PL     | 1           | 0.04 %         | 0.03      |
| RECOVERED SIG 10         | SVR    | 1           | 0.04 %         | 0.03      |
| SEXUAL OFFENDER          | SXF    | 1           | 0.04 %         | 0.03      |
| SOLICITORS               | SOL    | 1           | 0.04 %         | 0.03      |
| STOLEN TAG               | TAGS   | 1           | 0.04 %         | 0.03      |
| STOLEN VEHICLE           | SV     | 1           | 0.04 %         | 0.03      |
| STRUC FIRE COMM/HIGHRISE | SFCH   | 1           | 0.04 %         | 0.03      |

# POLICE CALLS TOTALS BY TYPE (NO CIVIL)

DB SHORES POLICE

DATES: 2024-03-01 through 2024-03-31

LOCATION: ALL | ZONE: ALL | RD: ALL

| DESCRIPTION      | SIGNAL | TOTAL CALLS | % OF ALL CALLS | DAILY AVG |
|------------------|--------|-------------|----------------|-----------|
| THREATENING CALL | TCALL  | 1           | 0.04 %         | 0.03      |
| TRAUMA NON-EMERG | TRAU2  | 1           | 0.04 %         | 0.03      |
| TRESPASS WARNING | TPW    | 1           | 0.04 %         | 0.03      |
| VANDALISM        | VAND1  | 1           | 0.04 %         | 0.03      |
| WEAPONS COMPL    | WC     | 1           | 0.04 %         | 0.03      |
| TOTAL CALLS:     |        | 2,223       | 100.00%        | 71.71     |

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

**DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY**

**MARCH 2024 STATISTICS**

| <b>FIRE CALLS</b>                    | <b>CURRENT MONTH</b> | <b>YEAR TO DATE</b> | <b>PRIOR YEAR</b> |
|--------------------------------------|----------------------|---------------------|-------------------|
| STRUCTURE FIRES                      | 1                    | 0                   | 3                 |
| HAZARDOUS CONDITIONS                 | 6                    | 2                   | 66                |
| VEHICLE FIRES                        | 0                    | 0                   | 0                 |
| BOAT FIRES                           | 0                    | 0                   | 0                 |
| OTHER FIRES NOT LISTED               | 1                    | 2                   | 15                |
| VEHICLE CRASHES<br>W/ENGINE RESPONSE | 1                    | 2                   | 10                |
| SERVICE CALLS                        | 57                   | 116                 | 282               |
| FIRE ALARMS                          | 27                   | 58                  | 185               |
| CANCELLED EN ROUTE                   | 12                   | 32                  | 142               |
| TOTALS                               | 105                  | 212                 | 703               |

| <b>INSPECTIONS</b>    | <b>CURRENT MONTH</b> |                  | <b>YEAR TO DATE</b> |                  | <b>PRIOR YEAR</b> |                  |
|-----------------------|----------------------|------------------|---------------------|------------------|-------------------|------------------|
|                       | <b>INITIAL</b>       | <b>FOLLOW-UP</b> | <b>INITIAL</b>      | <b>FOLLOW-UP</b> | <b>INITIAL</b>    | <b>FOLLOW-UP</b> |
| HIGH RISE             | 3                    | 1                | 9                   | 12               | 44                | 38               |
| HOTEL/MOTEL           | 5                    | 2                | 14                  | 12               | 44                | 30               |
| ASSEMBLY              | 0                    | 0                | 0                   | 0                | 1                 | 2                |
| MERCANTILE            | 7                    | 0                | 19                  | 6                | 33                | 8                |
| RESTAURANT            | 1                    | 0                | 2                   | 1                | 18                | 11               |
| BUSINESS              | 8                    | 1                | 28                  | 9                | 84                | 12               |
| OTHER                 | 13                   | 0                | 34                  | 0                | 189               | 8                |
| CONSTRUCTION          | 0                    | 0                | 0                   | 0                | 34                | 8                |
| OCCUPATIONAL LICENSES | 0                    | 0                | 0                   | 0                | 0                 | 0                |
| APARTMENTS/CONDO      | 10                   | 1                | 24                  | 7                | 40                | 13               |
| TOTALS                | 47                   | 5                | 130                 | 47               | 487               | 130              |

**PLANS EXAMINATION HOURS: 4 HRS**

**DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY**  
**MARCH 2024 STATISTICS**

| EMS CALLS | CURRENT MONTH | YEAR TO DATE | PRIOR YEAR |
|-----------|---------------|--------------|------------|
| ALS CALLS | 49            | 110          | 396        |
| BLS CALLS | 39            | 110          | 448        |
| TOTALS    | 88            | 220          | 844        |



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

*TRAINING SEMINARS ATTENDED*

*Month of March 2024*

|                       |                |                                                        |
|-----------------------|----------------|--------------------------------------------------------|
| <i>Zach Ignoffo</i>   | <i>3/8-9</i>   | <i>Breath Test Operator<br/>Seminole State College</i> |
| <i>Bill Phillips</i>  | <i>3/11-15</i> | <i>Child Sex Crimes<br/>Valencia State College</i>     |
| <i>Norman Medders</i> | <i>3/19-20</i> | <i>Disaster Preparedness<br/>Volusia EOC</i>           |
| <i>Norman Medders</i> | <i>3/29</i>    | <i>Agency Inspector recert<br/>DSC</i>                 |



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

## **MONTHLY REPORT FOR MARCH 2024**

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

|                             |          |
|-----------------------------|----------|
| Replace A/C condenser       | veh #147 |
| Replace power steering tube | veh #117 |
| Replace serpentine belt     | veh #94  |
| Replace battery             | veh #94  |
| Replace wiper blades        | veh #185 |
| Replace alternator          | veh #159 |
| Replace wiper blades        | veh #184 |
| Replace A/c compressor      | veh #140 |



**CITY COMMISSION AGENDA MEMORANDUM  
APRIL 23, 2024 AGENDA**

**TO:** Honorable Mayor and Members of the City Commission

**FROM:**

**PREPARED BY:** Stewart Cruz, Community Services Director

**SUBJECT:** Community Services Department Monthly Report - March 2024

**SYNOPSIS:**

**FISCAL IMPACT STATEMENT:**

**BACKGROUND:**

**LEGAL REVIEW:**

**RECOMMENDATION:**

**SUGGESTED MOTION:**

**ATTACHMENT:**

1. CSD Planning & Building Divisions Montly Report - March 2024
2. CSD Public Works & Sewer Divisions Montly Report - March 2024

# City of Daytona Beach Shores

## Planning & Building Division Statistics

### Monthly Report – March, 2024

### Planning Division

#### Site Plans - Submittals and Approvals:

Submitted this Month: 0  
 Submitted this Fiscal Year: 5  
 Approved by Staff this Month: 0  
 Approved by Staff this Fiscal Year: 0  
 Approved by City Commission this Month: 0  
 Approved by City Commission this Fiscal Year: 1  
 Amendments Approved by Staff this Fiscal Year: 1

### Building Division

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

| PROJECT                | WORK ADDRESS                          | DATE | WORK DESCRIPTION                                      | VALUE        | REVENUE    |
|------------------------|---------------------------------------|------|-------------------------------------------------------|--------------|------------|
| Vrochopoulos Residence | 2905 South Atlantic Avenue            | 3/1  | Asphalt shingle re-roof                               | \$15,900.00  | \$161.50   |
| Gasparian Residence    | 2967 South Atlantic Avenue, Unit 901  | 3/1  | Remodel kitchen and 2 bathrooms, cabinets and top     | \$46,000.00  | \$329.33   |
| Bloom Residence        | 3245 South Atlantic Avenue, Unit 1007 | 3/4  | Remove and replace kitchen cabinets                   | \$39,000.00  | \$289.51   |
| Beckett Residence      | 2947 South Atlantic Avenue, Unit 805  | 3/4  | Bathroom remodel, remove wall, new cabinets, and tops | \$11,700.00  | \$129.10   |
| WLW Capital LLC        | 3738 South Atlantic Avenue            | 3/5  | Install 22 ductless A/C units                         | \$23,870.00  | \$197.11   |
| Sand & Surf Condo      | 2535 South Atlantic Avenue            | 3/6  | New inground concrete pool                            | \$247,325.00 | \$1,577.96 |
| Fantasy Island II      | 3175 South Atlantic Avenue            | 3/6  | Install and connect gas piping                        | \$31,000.00  | \$48.70    |
| Fantasy Island II      | 3175 South Atlantic Avenue            | 3/6  | Renovation, pool restroom, water supply piping        | \$64,000.00  | \$80.60    |
| Daytona Seabreeze      | 3125 South Atlantic Avenue            | 3/6  | Install and connect gas piping                        | \$28,000.00  | \$48.10    |
| Daytona Seabreeze      | 3125 South Atlantic Avenue            | 3/6  | Renovation, water supply piping                       | \$51,000.00  | \$58.20    |

| PROJECT                 | WORK ADDRESS                          | DATE | WORK DESCRIPTION                                         | VALUE        | REVENUE    |
|-------------------------|---------------------------------------|------|----------------------------------------------------------|--------------|------------|
| Dolphin Beach Club      | 3355 South Atlantic Avenue            | 3/6  | Install and connect gas piping                           | \$31,000.00  | \$71.05    |
| Dolphin Beach Club      | 3355 South Atlantic Avenue            | 3/6  | Renovation, pool restroom, water supply piping           | \$64,000.00  | \$83.90    |
| Fantasy Island II       | 3175 South Atlantic Avenue            | 3/6  | New sub panel, provide power for equipment and lighting  | \$42,000.00  | \$144.40   |
| Daytona Seabreeze       | 3125 South Atlantic Avenue            | 3/6  | New sub panel, provide power for equipment and lighting  | \$55,000.00  | \$147.00   |
| Dolphin Beach Club      | 3355 South Atlantic Avenue            | 3/6  | New sub panel, provide power for equipment and lighting  | \$54,000.00  | \$146.80   |
| Baue Residence          | 3703 South Atlantic Avenue, Unit 1107 | 3/6  | Install storm shutters for hurricane protection          | \$33,371.00  | \$260.87   |
| Clary Residence         | 3703 South Atlantic Avenue, Unit 407  | 3/6  | Install storm shutters for hurricane protection          | \$33,371.00  | \$260.87   |
| Greenway Residence      | 2615 South Atlantic Avenue, Unit 3D   | 3/7  | Replace cabinets and countertops                         | \$10,500.00  | \$120.55   |
| Hagerman Residence      | 2615 South Atlantic Avenue, Unit 5G   | 3/7  | Replace cabinets and countertops                         | \$11,800.00  | \$129.10   |
| Judge Residence         | 3003 South Atlantic Avenue, Unit 9B4  | 3/7  | Remodel kitchen, remove walls, new cabinets and tops     | \$58,445.00  | \$403.12   |
| Bryant Residence        | 2715 South Atlantic Avenue            | 3/11 | Resurface driveway                                       | \$17,115.00  | \$172.20   |
| Perennial Vacation Club | 2525 South Atlantic Avenue            | 3/11 | Replace (5) mini split systems                           | \$14,873.00  | \$136.90   |
| Sun Viking Lodge        | 2411 South Atlantic Avenue            | 3/12 | New conduit and wiring from house panel to pool pump     | \$10,735.00  | \$47.50    |
| Stanforth Residence     | 3315 South Atlantic Avenue, Unit 607  | 3/13 | Install (2) motorized roll-down hurricane shutters       | \$10,500.00  | \$120.55   |
| Besaw Residence         | 3315 South Atlantic Avenue, Unit 1006 | 3/13 | Install (5) motorized roll-down hurricane shutters       | \$18,530.00  | \$177.58   |
| Dollar General          | 2112 South Atlantic Avenue            | 3/13 | Install (2) cupolas, (4) dormers, repair soffit, sliding | \$75,000.00  | \$494.31   |
| DiMucci Towers 14       | 3797 South Atlantic Avenue            | 3/13 | Replace beach access ramp                                | \$55,000.00  | \$380.53   |
| Sanibel Condo           | 3799 South Atlantic Avenue            | 3/14 | Construct in-ground pool and spa, decking, walkway       | \$97,000.00  | \$619.46   |
| Grey Residence          | 113 Key Colony Court                  | 3/15 | Change out 3 ton A/C system                              | \$10,775.00  | \$110.50   |
| Holt Residence          | 4 Oceans West Boulevard, Unit 304D    | 3/15 | Remodel master bathroom, new vanity, and tops            | \$30,000.00  | \$238.31   |
| Southern Sands          | 2500 South Atlantic Avenue            | 3/15 | Replace roof top unit                                    | \$11,500.00  | \$117.10   |
| Palmas de Mallorca      | 3811 South Atlantic Avenue            | 3/15 | Replace beach access ramp                                | \$50,000.00  | \$352.09   |
| Palma Bella Condo       | 3245 South Atlantic Avenue            | 3/15 | Reroof tile roof                                         | \$273,000.00 | \$1,328.09 |
| Palma Bella Condo       | 3245 South Atlantic Avenue            | 3/15 | Replace steel deck                                       | \$20,000.00  | \$182.96   |

| PROJECT                   | WORK ADDRESS                           | DATE | WORK DESCRIPTION                                     | VALUE        | REVENUE    |
|---------------------------|----------------------------------------|------|------------------------------------------------------|--------------|------------|
| Colonial Trading LLC      | 147 Boynton Boulevard                  | 3/15 | Stucco repairs and (9) unit remodels                 | \$123,000.00 | \$728.47   |
| Oceanside Inn             | 1909 South Atlantic Avenue             | 3/18 | Install GTA and metal edge, replace vents, flashing  | \$222,896.00 | \$1,128.19 |
| Goldsberry Residence      | 2615 South Atlantic Avenue, Unit 6C    | 3/19 | Install kitchen cabinets                             | \$15,000.00  | \$154.75   |
| Sunglow Resort            | 3647 South Atlantic Avenue             | 3/19 | Replace existing natural gas generator               | \$46,771.00  | \$75.78    |
| El Caribe                 | 2125 South Atlantic Avenue             | 3/19 | Replace backflow preventer device                    | \$11,750.00  | \$69.25    |
| Sague Residence           | 3501 South Atlantic Avenue, Unit 722   | 3/20 | Kitchen and bathroom remodel                         | \$56,000.00  | \$386.22   |
| Sideropoulos Residence    | 119 Raymond Avenue                     | 3/20 | Replace 5 windows                                    | \$17,807.00  | \$172.20   |
| Oceans Six Condo          | 2967 South Atlantic Avenue             | 3/20 | Replace tower water lines, repair various stacks     | \$182,508.00 | \$116.50   |
| Connery Residence         | 2937 South Atlantic Avenue, Unit 1007  | 3/21 | Replace counter tops, cabinet doors, drawer fronts   | \$15,000.00  | \$154.75   |
| Marrietta Residence       | 2901 South Atlantic Avenue, Unit PH203 | 3/22 | Convert tub to shower, new faucets, and sinks        | \$10,000.00  | \$47.50    |
| Oceans Five Condo         | 2987 South Atlantic Avenue             | 3/22 | Remove steel framed platform, install concrete       | \$34,700.00  | \$266.66   |
| St. Maarten Condo         | 2403 South Atlantic Avenue             | 3/22 | Minor concrete repairs, railing replacement          | \$655,706.00 | \$2,595.21 |
| Coruh Residence           | 2 Oceans West Boulevard, Unit 1806     | 3/22 | Install 4 motorized roll down hurricane shutters     | \$17,796.00  | \$172.20   |
| Kusich Residence          | 3703 South Atlantic Avenue, Unit 308   | 3/22 | Install motorized roll down hurricane shutters       | \$19,500.00  | \$182.96   |
| Daytona Seabreeze         | 3125 South Atlantic Avenue             | 3/25 | Rebuild pool                                         | \$436,018.00 | \$47.50    |
| Fantasy Island            | 3175 South Atlantic Avenue             | 3/25 | Rebuild pool                                         | \$275,566.00 | \$47.50    |
| Dolphin Beach Club        | 3355 South Atlantic Avenue             | 3/25 | Rebuild pool                                         | \$339,429.00 | \$47.50    |
| Apholt Residence          | 3737 South Atlantic Avenue, Unit 203   | 3/25 | Change out 2 ton HVAC system                         | \$14,978.00  | \$136.90   |
| Nelson Residence          | 2967 South Atlantic Avenue, Unit 308   | 3/25 | Change out 3.5 ton water to air system               | \$11,416.00  | \$117.10   |
| Hollman Residence         | 4 Oceans West Boulevard, Unit 703A     | 3/26 | Replace impact windows and doors                     | \$25,690.00  | \$215.47   |
| Frankovich Residence      | 3047 South Atlantic Avenue, Unit 2002  | 3/26 | Replace impact sliding glass door                    | \$12,500.00  | \$137.65   |
| Rebholz Residence         | 2615 South Atlantic Avenue, Unit 7F    | 3/26 | Replace cabinets and tops in kitchen and master bath | \$15,800.00  | \$161.50   |
| Oceans West HOA           | 7 Oceans West Boulevard                | 3/26 | Re-roof building, replace 10 skylights               | \$36,800.00  | \$278.07   |
| Shoreline All Suites      | 2435 South Atlantic Avenue             | 3/27 | Reconstruct beach access stairs                      | \$15,000.00  | \$154.75   |
| DiMucci Twin Towers South | 3315 South Atlantic Avenue             | 3/27 | Install equipment on 11 exterior locations           | \$25,000.00  | \$332.50   |

| PROJECT               | WORK ADDRESS                          | DATE | WORK DESCRIPTION                              | VALUE          | REVENUE     |
|-----------------------|---------------------------------------|------|-----------------------------------------------|----------------|-------------|
| White Surf Condo      | 3555 South Atlantic Avenue            | 3/27 | Construct timber dune walkover                | \$20,000.00    | \$182.96    |
| Shores Resort and Spa | 2637 South Atlantic Avenue            | 3/27 | Install 2 new wall signs                      | \$35,950.00    | \$159.92    |
| Pecina Residence      | 2515 South Atlantic Avenue, Unit 903  | 3/27 | Replace 1 entry door                          | \$12,500.00    | \$137.65    |
| Beller Residence      | 3333 South Atlantic Avenue, Unit 1201 | 3/29 | Replace 1 window and 2 sliding glass doors    | \$29,660.00    | \$238.21    |
| Patel Residence       | 3051 South Atlantic Avenue, Unit 903  | 3/29 | Replace windows in living room and 2 bedrooms | \$47,550.00    | \$340.58    |
|                       |                                       |      |                                               |                |             |
| TOTALS                | WORK ADDRESS                          | DATE | WORK DESCRIPTION                              | \$4,427,601.00 | \$18,125.25 |

### Building Division Revenue by Permit Category:

| PERMIT TYPE            | MARCH 2024  | FISCAL YEAR-TO-DATE 2023 TO 2024 | MARCH 2023   | LAST FISCAL YEAR-TO-DATE 2022 TO 2023 |
|------------------------|-------------|----------------------------------|--------------|---------------------------------------|
| BUILDING               | \$15,643.16 | \$124,420.65                     | \$70,394.80  | \$156,386.73                          |
| ROOF                   | \$3,393.95  | \$21,953.94                      | \$18,456.79  | \$27,044.90                           |
| DEMOLITION             | \$0.00      | \$340.00                         | \$323.90     | \$545.30                              |
| ELECTRICAL             | \$3,773.45  | \$15,694.88                      | \$2,486.79   | \$13,555.26                           |
| MECHANICAL             | \$3,096.15  | \$24,053.06                      | \$2,610.05   | \$14,967.23                           |
| PLUMBING               | \$4,267.80  | \$27,980.48                      | \$3,276.57   | \$14,262.85                           |
| SIGN                   | \$618.77    | \$2,355.76                       | \$853.13     | \$2,124.79                            |
| POLITICAL SIGN BONDS   | \$0.00      | \$0.00                           | \$0.00       | \$0.00                                |
| STORMWATER MANAGEMENT  | \$0.00      | \$0.00                           | \$0.00       | \$0.00                                |
| MISCELLANEOUS          | \$301.60    | \$1,886.57                       | 0.00         | \$598.25                              |
| DEVELOPMENT FEES       | \$25.00     | \$10,505.44                      | \$2,577.50   | \$5,621.52                            |
| PROMOTIONAL ACTIVITIES | \$0.00      | \$0.00                           | \$0.00       | \$0.00                                |
| TOTALS                 | \$31,119.88 | \$229,190.78                     | \$100,979.53 | \$235,106.83                          |

### Building Division Activities:

| ACTIVITY    | MARCH 2024       | FISCAL YEAR-TO-DATE 2023 TO 2024 | MARCH 2023 | LAST FISCAL YEAR-TO-DATE 2022 TO 2023 |
|-------------|------------------|----------------------------------|------------|---------------------------------------|
| INSPECTIONS | {12}+[333] = 345 | 1918                             | 328        | 1529                                  |

|                                                     |                  |      |     |     |
|-----------------------------------------------------|------------------|------|-----|-----|
| FINAL<br>CERTIFICATES OF<br>OCCUPANCY<br>ISSUED     | 0                | 1    | 0   | 1   |
| TEMPORARY<br>CERTIFICATES OF<br>OCCUPANCY<br>ISSUED | 1                | 2    | 0   | 0   |
| FINAL<br>INSPECTIONS                                | {12}+[230] = 242 | 1267 | 221 | 774 |
| FAILED<br>INSPECTIONS                               | {0}+[59] = 59    | 248  | 15  | 83  |

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

Projects Begun Current Fiscal Year-to-Date – 2023 to Present: \$32,663,112.00

Projects Begun Last Fiscal Year – 2022 to 2023: \$88,785,455.00

Projects Begun Two Fiscal Years Ago – 2021 to 2022: \$64,300,811.00

{ } indicates a City inspection

[ ] indicates a Universal Engineering Services (City Inspection Contractor) inspection

# PUBLIC WORKS & SEWER DIVISIONS

## MONTHLY REPORT - MARCH 2024

### **FACILITIES MAINTENANCE DIVISION:**

This division currently two full time positions.

#### **Normal monthly duties:**

This division is responsible for the upkeep and maintenance of city buildings. The facilities staff assesses problems reported with the buildings and repairs as needed within the staff's capabilities. The facilities staff has an HVAC certification therefore certain related repairs can be performed inhouse. Among other things, Staff pressure wash buildings, clean window exteriors, paint, lubricate the locks, deliver water jugs and perform any other general maintenance needed with the city buildings and city owned properties. Tasks outside the expertise of the staff are contracted to third party specialists.

#### **Additionally, this month:**

- Community Center: Set up and break down for the primary election event
- Public Safety: Continued work on replacing the ceiling in the fleet garage, worked on the drain for the ice machine, repaired a urinal
- Citizens Academy: Provided a presentation at the Citizen's Academy

### **PARKS / STREETS DIVISION:**

This division typically has eleven maintenance positions, one electrician position and one position that routinely assists the electrician. This division is down three (3) Maintenance Worker positions.

### Normal monthly duties:

This division performs maintenance, upkeep and general appearance of all the City parks, streets, sidewalks and medians daily, including, but not limited to, mowing, changing out lights, restocking supplies, replacing plants as needed, replacing or repairing street signs, checking and clearing storm drains, as well as any other related issue that may arise in the City. Per the City-County Park Maintenance Agreement, this division also is responsible for the cleaning and upkeep of the new county parks. Although there are two units (parks & streets) within the division, all personnel share in the normal monthly duties.

### Additionally, this month:

- Painted at McElroy and Fornari parks
- Removed and replaced exercise equipment at McElroy Park
- Re-stripped parking lots at McElroy Park and the Pavillion
- Barricaded and unbarricaded pickleball courts at McElroy Park
- Repaired additional foot washes at Racquet Club
- Installed an additional dog waste bag holder at Andrinopoulos Park
- Repaired railings on the Tuscany Shores beach access stairs
- Replaced ADA pads on Demotte Ave.
- Provided presentations/demonstrations for the Citizens Academy of various assets such as equipment and vehicles
- Put up and took down Food Truck banner and portable sign

### Electrician:

- Electrical Locates: 44
- Continued replacing damaged decorative fixtures, globes and fuses along A1A, this task will be continuous as material is available
- Continued work on fleet ceiling installation with building maintenance
- Repaired the city entrance sign on Atlantic Avenue (south side)
- Public Safety stair well lighting repairs

- Installed fixtures at Station 1 for better lighting
- Repaired ceiling fixtures at public safety
- Repaired court of flags lighting
- Reset circuit breaker in rear of fleet garage
- Repaired city entrance sign on S. Atlantic Avenue (north side)

### **SEWER DIVISION:**

This division is back up to four positions.

#### **Normal monthly duties:**

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

#### **Additionally, this month:**

- Sewer locates – 44
- Checked back up at 2010 S. Atlantic
- Replaced dry pit hatches at Station 1 and 6
- Checked sewer availability at two locations
- Provided a presentation/demonstration for the Citizens Academy



**CITY COMMISSION AGENDA MEMORANDUM  
APRIL 23, 2024 AGENDA**

**TO:** Honorable Mayor and Members of the City Commission  
**FROM:** Nancy Maddox, Recreation Director  
**PREPARED BY:** Nancy Maddox, Recreation Director  
**SUBJECT:** Approve Shores Community Center's proposed hours of operation.

**SYNOPSIS:**

The Shores Community Center is open to the public and has many programs throughout the week. The hours of operation are as follows:

Monday 8 a.m. - 4:30 p.m.

Tuesday 8 a.m. - 7:30 p.m.

Wednesday 8 a.m. - 4:30 p.m.

Thursday 8 a.m. - 8 p.m.

Friday 8 a.m. - 4:30 p.m.

Saturday 8 a.m. - noon

Saturdays have been very slow with an average of two people attending an exercise class. Due to the lack of attendance, staff is recommending approval to close the facility on Saturdays except when it is being used for a private or city event.

**FISCAL IMPACT STATEMENT:**

**BACKGROUND:**

**LEGAL REVIEW:**

**RECOMMENDATION:**

**SUGGESTED MOTION:**

Move to approve the Shores Community Center to close on Saturdays except when it is being used for a private or city event.

**ATTACHMENT:** None





## **CITY COMMISSION AGENDA MEMORANDUM APRIL 23, 2024 AGENDA**

**TO:** Honorable Mayor and Members of the City Commission

**FROM:**

**PREPARED BY:** Stewart Cruz, Community Services Director

**SUBJECT:** Approval of Priority Sites Dune Walkover Reconstruction Agreement: Paul Culver Construction, Inc.

### **SYNOPSIS:**

The City posted an invitation to bid for the reconstruction of five (5) priority beach access sites in need of new ADA dune walkovers located at 2403, 2515, 3245, 3343 and 3703 S. Atlantic Avenue. The City received proposals from five contractors. Greg Reynolds Construction, LLC provided the lowest bid but could not obtain the necessary surety bond for the project. Consequently, Staff moved on to the second lowest bidder, Paul Culver Construction, Inc. and verified the contractor's listed references to confirm experience and expertise for the job. The City received FDEP permit approval for this project on April 1, 2024. The total cost of replacing the subject dune walkovers noted in the proposal is \$518,200, which is within the budgeted amount approved by the City Commission.

### **FISCAL IMPACT STATEMENT:**

No fiscal impact as this is a budgeted expenditure.

### **BACKGROUND:**

### **LEGAL REVIEW:**

### **RECOMMENDATION:**

Approval of Priority Sites Dune Walkover Reconstruction Agreement with Paul Culver Construction, Inc.

### **SUGGESTED MOTION:**

Approval of Priority Sites Dune Walkover Reconstruction Agreement with Paul Culver Construction, Inc.

- ATTACHMENT:**
1. ICA- Paul Culver Construction- Dune Walkover PKC-Signed
  2. Exhibit A - Paul Culver Construction Inc\_04.09.24

**INDEPENDENT CONTRACTOR'S AGREEMENT BY AND BETWEEN  
THE CITY OF DAYTONA BEACH SHORES, FLORIDA  
AND PAUL CULVER CONSTRUCTION, INC.**

**THIS INDEPENDENT CONTRACTOR'S AGREEMENT** (hereinafter this "Agreement") is made and entered into this 11 day of April 2024, by and between THE CITY OF DAYTONA BEACH SHORES, FLORIDA, a Florida municipality (hereinafter referred to as the "CITY"), and PAUL CULVER CONSTRUCTION, INC., a Florida corporation (hereinafter referred to as the "CONTRACTOR"). The CITY and CONTRACTOR may be collectively referenced herein as the "Parties".

**WITNESSETH**

**WHEREAS**, the CITY has the full power and authority to enter into the transactions contemplated by this Agreement; and

**WHEREAS**, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates; and

**WHEREAS**, CONTRACTOR was the successful bidder of a project competitively bid in a manner which satisfies the CITY's Procurement Policy. The CITY's bid documents and CONTRACTOR's submittal is made a part hereof by reference; and

**WHEREAS**, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern". Any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

**WHEREAS**, CONTRACTOR agrees to provide such goods and services as more particularly described in this Agreement, as well as in any bid, quotation, or proposal documents in connection with this project; and

**WHEREAS**, Contractor agrees to provide services to those sites located at **2403, 2515, 3245, 3343 and 3703 South Atlantic Avenue.**

**NOW THEREFORE** in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.
2. **Description of Work.**
  - a. The CITY hereby retains CONTRACTOR to furnish goods and services as described in the Bid Documents and the proposal, which is attached hereto as Exhibit "A" and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in Exhibit "A" will be resolved in favor of the body of this Agreement. Specifically, the scope of work is limited to those sites located at 2403, 2515, 3245, 3343 and 3703 South Atlantic Avenue.
  - b. CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Services, unless specifically excluded.
  - c. CONTRACTOR must also comply with, and abide by, all requirements as contained in any invitation to bid (ITB), request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the CITY, together with any addenda, hereinafter the "Bid Documents, as applicable." The Bid Documents, if applicable, are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.
3. **Commencement and completion/Term.** Contractor shall begin the job within 30 days of acceptance of this contract but in no event shall the work go beyond September 30, 2024, unless prohibited by the Florida Department of Environmental Regulation and/or Florida Fish and Wildlife Conservation Commission sea turtle nesting regulations. If construction is prohibited during sea turtle nesting Season, work shall commence on November 1, 2024 and completed within 150 days.
4. **Payment.**
  - a. The CITY agrees to compensate CONTRACTOR, for work actually performed under this Agreement, at the rate or basis described in Exhibit "A", which is attached hereto and incorporated herein by reference. CONTRACTOR must perform all work required by the Scope of Services, but in no event will CONTRACTOR be paid more than the negotiated amount set forth in Exhibit "A".
  - b. Progress payments, if any, will be made as set forth in Exhibit "A".
  - c. The CITY reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR's obligations. CONTRACTOR must, without additional compensation, correct and revise any errors, omissions, or other

deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.

5. **Acceptance, final payment, and performance guarantee.** Upon receipt of written notice that the work is ready for final inspection and acceptance, the CITY will promptly make such inspection. When it finds the work acceptable under this Agreement and the contract fully performed, it will promptly issue a final certificate stating that the work provided for in this Agreement has been completed, and acceptance by the CITY under the terms and the conditions thereof, is recommended and the entire balance, found to be due to CONTRACTOR, will be paid to CONTRACTOR within thirty (30) days after the date of the final certificate. Before issuance of final certificate, CONTRACTOR must submit an affidavit satisfactory to the CITY that all payrolls, subcontractors, materialmen, and other similar bills and indebtedness connected with the work have been paid. CONTRACTOR guarantees to repair, replace or otherwise make good to the satisfaction of the CITY any defect in workmanship or material appearing in the work; and further guarantees the successful performance of the work for the service intended. Neither inspection nor payment, including final payment, by the CITY will relieve CONTRACTOR from its obligations to do and complete the work in accordance with this Agreement. If the CITY deems it inexpedient to require CONTRACTOR to correct deficient or defective work, the CITY will make an equitable deduction from the contract price, or, in the alternative, the CITY may seek damages.

6. **Termination.**

- a. Termination at Will: This Agreement may be terminated by the CITY in whole or in part at any time without cause by the CITY giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.
- b. Termination for Cause: This Agreement may be terminated by either party for cause by the CITY or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

7. **Project management.**

- a. The Project Managers for this project are as follows. Any subsequent changes to the Project Manager for either party may be provided by notice as described in paragraph 9 below and does not require an amendment to this Agreement.
  - i. CITY's Project Manager is: Steward Cruz, AICP, Community Services Director, City of Daytona Beach Shores.
  - ii. CONTRACTOR's Project Manager is: Paul Culver, President

8. **Notices.** All notices to the parties under this Agreement must be in writing and sent certified mail to:

- a. To CITY: Daytona Beach Shores City Commission, Attention: City Manager, 2990 S Atlantic Avenue, Daytona Beach Shores, FL 32118;
- b. To CONTRACTOR: Paul Culver Construction, Inc. Attention: Paul Culver, President, 201 Osceola Avenue, Daytona Beach, FL 32114

9. **Insurance.**

- a. CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the CITY from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.
- b. The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. If the Bid Documents do not state an insurance requirement or the amount of insurance, then the amount of insurance required by this Agreement must not be less than:
  - i. Workers' Compensation (unless exempt) with Employers' Liability with a limit of \$500,000.00 each accident, \$500,000.00 each employee, \$500,000.00 policy limit for disease;
  - ii. Commercial General Liability (CGL) insurance with a limit of not less than \$500,000.00 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project/work in the amount of \$1,000,000.00. Products and completed operations aggregate shall be \$1,000,000.00. CGL insurance shall be written on an occurrence form and include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury, and advertising injury. Damage to rented premises shall be included at \$100,000.00;
  - iii. Commercial Automobile Liability Insurance with a limit of not less than \$1,000,000.00 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos) and such policy shall be endorsed to provide contractual liability coverage; and
  - iv. Fire damage liability shall be included at \$500,000.00.
- c. CONTRACTOR must furnish the CITY with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The CITY

is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must provide a 30 day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the CITY before commencement of any work activities.

- d. The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self-insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.

10. **General Provisions.** CONTRACTOR must comply with the following general provisions:

- a. **Bond.** If a surety bond has been required by the Bid Documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the CITY, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the CITY to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the CITY. The CITY will not make any further payment to CONTRACTOR, nor will any further payment be deemed to be due to CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the CITY.
- b. **Compliance with Laws.** In providing the Scope of Services, CONTRACTOR must comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations pertaining to or regulating the provision of such services, including those now in effect and hereafter adopted.
- c. **Personal nature of Agreement; Assignment.**
  - i. The parties acknowledge that the CITY places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the CITY.
  - ii. If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the CITY Project Manager prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.
- d. **Discrimination.**

- i. CONTRACTOR shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. CONTRACTOR shall not exclude any person, on the grounds of age, ethnicity, race, religious belief, disability, national origin, or sex, from participation in, denied the benefits of, or be otherwise subjected to discrimination in any activity under, this Agreement.
- ii. CONTRACTOR shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management.

e. **Independent contractor.**

- i. CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the CITY. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the CITY. None of the benefits, if any, provided by the CITY to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the CITY to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the CITY and is subject to the CITY's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The CITY will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.
- ii. CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.
- iii. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

f. **Indemnification.**

- i. CONTRACTOR must indemnify and hold the CITY harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the CITY, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses,

penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors). CONTRACTOR must further indemnify the CITY against any claim that any product purchased or licensed by the CITY from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. CONTRACTOR acknowledges that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the CITY by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR's execution of this Agreement. CONTRACTOR's obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all other legal remedies available to the CITY and not considered to be the CITY's exclusive remedy.

- ii. In the event that any claim in writing is asserted by a third party which may entitle the CITY to indemnification, the CITY must give notice thereof to CONTRACTOR, which notice must be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR has the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the CITY decides to participate in the proceeding or defense, the CITY will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.
- iii. The indemnification provisions of this paragraph will survive the termination of this Agreement.

g. **Public records.**

- i. CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:
  - 1. Keep and maintain public records required by the CITY to perform the service.
  - 2. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the CITY.
  4. Upon completion of this Agreement, transfer, at no cost, to the CITY all public records in possession of CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If CONTRACTOR transfers all public records to the CITY upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.
- ii. "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.
  - iii. If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.
  - iv. CONTRACTOR consents to the CITY's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by CITY.
  - v. CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the CITY.
  - vi. Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CHERI SCHWAB, CITY CLERK  
(386) 763-5353  
CSCHWAB@CITYOFDBS.ORG  
2990 SOUTH ATLANTIC AVENUE  
DAYTONA BEACH SHORES  
FLORIDA 32118**

- h. **Public Records Compliance Indemnification.** CONTRACTOR agrees to indemnify and hold the CITY harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by CONTRACTOR's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. CONTRACTOR authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against CONTRACTOR in Volusia County Circuit Court on an expedited basis to enforce the requirements of this section.
- i. **Compliance/Consistency with Section 768.28, Fla. Stat.** Any indemnification or agreement to defend or hold harmless by CITY specified in the Agreement shall not be construed as a waiver of CITY's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by CITY in the Agreement in derogation hereof shall be void and of no force or effect.
- j. **E-Verify Compliance.** CONTRACTOR affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., CONTRACTOR is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, CONTRACTOR requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that CONTRACTOR is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat
- k. **Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes.** Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. CONTRACTOR hereby certifies that CONTRACTOR is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. CONTRACTOR further hereby certifies that CONTRACTOR is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. CONTRACTOR understands that pursuant to

section 287.135, Florida Statutes, the submission of a false certification may subject CONTRACTOR to civil penalties, attorney's fees, and/or costs. CONTRACTOR further understands that any contract with CITY for goods or services of any amount may be terminated at the option of CITY if CONTRACTOR (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of CITY if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

1. **Disclosure Requirements for "Foreign Countries of Concern".** CONTRACTOR shall comply with the disclosure requirements set forth in section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

11. **Miscellaneous Provisions.** The following miscellaneous provisions apply to this Agreement:

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

the CITY subject to the CITY paying all invoices for services rendered during the period the Agreement was funded by appropriations.

- b. **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.
- c. **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the CITY staff do not suffice to legally bind the CITY in a contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized CITY representatives.
- d. **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.
- e. **Severability.** If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.
- f. **Construction.** If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.
- g. **Headings.** All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.
- h. **Waiver.** The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the CITY's rights under this Agreement, or of any cause of action the CITY may have arising out of the performance of this Agreement.

- i. **Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, out break of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Services" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.
- j. **Venue and Jurisdiction.** Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Volusia County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

12. **Special Provisions.**

- a. This Agreement may be signed in counterparts and electronic copies shall be treated as originals.

**(SIGNATURE PAGE FOLLOWS)**

Paul Culver Construction, Inc.  
Dune Walkover  
Signature Page

**IN WITNESS WHEREOF**, the parties hereto have signed and sealed this Agreement effective the date first written above.

**ATTESTED BY:**

**CITY OF DAYTONA BEACH SHORES:**

\_\_\_\_\_  
By: Cheri Schwab, City Clerk

\_\_\_\_\_  
Nancy Miller, Mayor, and Chairperson  
of the City Commission

Seal:

**PAUL CULVER CONSTRUCTION, INC.**

\_\_\_\_\_  
SIGNATURE

Print Name: Paul K. Culver

Title: President

Approved for form and content by:

\_\_\_\_\_  
Vose Law Firm, City Attorney



# PAUL CULVER CONSTRUCTION, INC.

QUALITY WORK BY SKILLED CRAFTSMEN. EST 2005.

License # CGC 059149

April 9, 2024, 2024

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

**RE: Dune Walkover Restoration**

Dear Cheri:  
Thank you for extending an opportunity to Paul Culver Construction, Inc. (PCC) to work with you completing the referenced project. We have reviewed the plans by Cape Design Engineering Company. In accordance with the above, we are pleased to submit this proposal to provide all Labor, Material, Equipment, Tools, Taxes, Insurance & Permits necessary to complete construction of the Dune Walkover Restoration for a lump sum price of **Each Location Quoted Separate** as follows:

**General Conditions**

- Supervision & Project Management
- General Liability & Workers Compensation Insurance
- Daily & Final Clean-Up
- Permits

**Concrete**

- Concrete 3,000 PSI with fiber 6" thick over compacted soil.

**Metal**

- Aluminum Rail 1-1/2" top and mid rail. Flange mounted to concrete.
- All fasteners, straps and bolts 316 stainless steel

**Carpentry**

- 6x6 PT Timbers in lieu of 6" round.
- All Lumber .60 CCA

Set all post by May1. Each Walkover will take 10 working days.

|                                                                          |                  |
|--------------------------------------------------------------------------|------------------|
| 2403 S. Atlantic Ave Railing and Tember Walkover (No concrete)           | \$93,000         |
| 2515 S. Atlantic Ave Fill Concrete sidewalk, Railing and Tember Walkover | \$109,200        |
| 3245 S. Atlantic Ave Concrete sidewalk, Railing and Tember Walkover      | \$78,000         |
| 3343 S. Atlantic Ave Concrete sidewalk and Tember Walkover (No railing)  | \$105,000        |
| 3703 S. Atlantic Ave Tember Walkover (No concrete, no railing)           | <u>\$133,000</u> |
| Total Combined                                                           | 518,200.00       |

We appreciate the opportunity to submit this proposal and look forward to a successful project.  
Respectfully,

**Paul K. Culver**

Paul K. Culver  
President





**CITY COMMISSION AGENDA MEMORANDUM  
APRIL 23, 2024 AGENDA**

**TO:** Honorable Mayor and Members of the City Commission  
**FROM:**  
**PREPARED BY:** Lory Irwin, Finance Director  
**SUBJECT:** March 2024 Executive Summary Report

**SYNOPSIS:**

Monthly financial reports for March 2024

**FISCAL IMPACT STATEMENT:**

**BACKGROUND:**

The city has collected 59.3% of the budgeted revenues for fiscal year 2023-24 through the end of March 2024. Expenditures total 37.1% of fiscal year budget 2023-24.

**LEGAL REVIEW:**

**RECOMMENDATION:**

**SUGGESTED MOTION:**

**ATTACHMENT:** 1. MBR 23-24 Pd 06

# EXECUTIVE SUMMARY

## Fiscal Year-To-Date Financial Report

### Month Ending March, 2024

| CURRENT YEAR OPERATIONAL PERFORMANCE |                     |                    |                      |            |
|--------------------------------------|---------------------|--------------------|----------------------|------------|
| Fund or Fund Segment                 | YTD Revenue         | YTD Expense        | Revenue Less Expense | Margin %   |
| General Fund Operations              | \$11,811,716        | \$7,390,022        | \$4,421,694          | 37%        |
| <b>General Fund Sub-Total</b>        | <b>\$11,811,716</b> | <b>\$7,390,022</b> | <b>\$4,421,694</b>   | <b>37%</b> |
| Sewer Fund Operations                | \$1,571,034         | \$1,602,559        | (\$31,524)           | -2%        |
| Sewer Fund Restricted Impact Fee     | \$10,111            | \$4,780            | \$5,331              | 53%        |
| <b>Sewer Fund Sub-Total</b>          | <b>\$1,581,145</b>  | <b>\$1,607,339</b> | <b>(\$26,194)</b>    | <b>-2%</b> |
| <b>TOTAL ALL FUNDS FISCAL YTD</b>    | <b>\$13,392,861</b> | <b>\$8,997,361</b> | <b>\$4,395,500</b>   | <b>33%</b> |

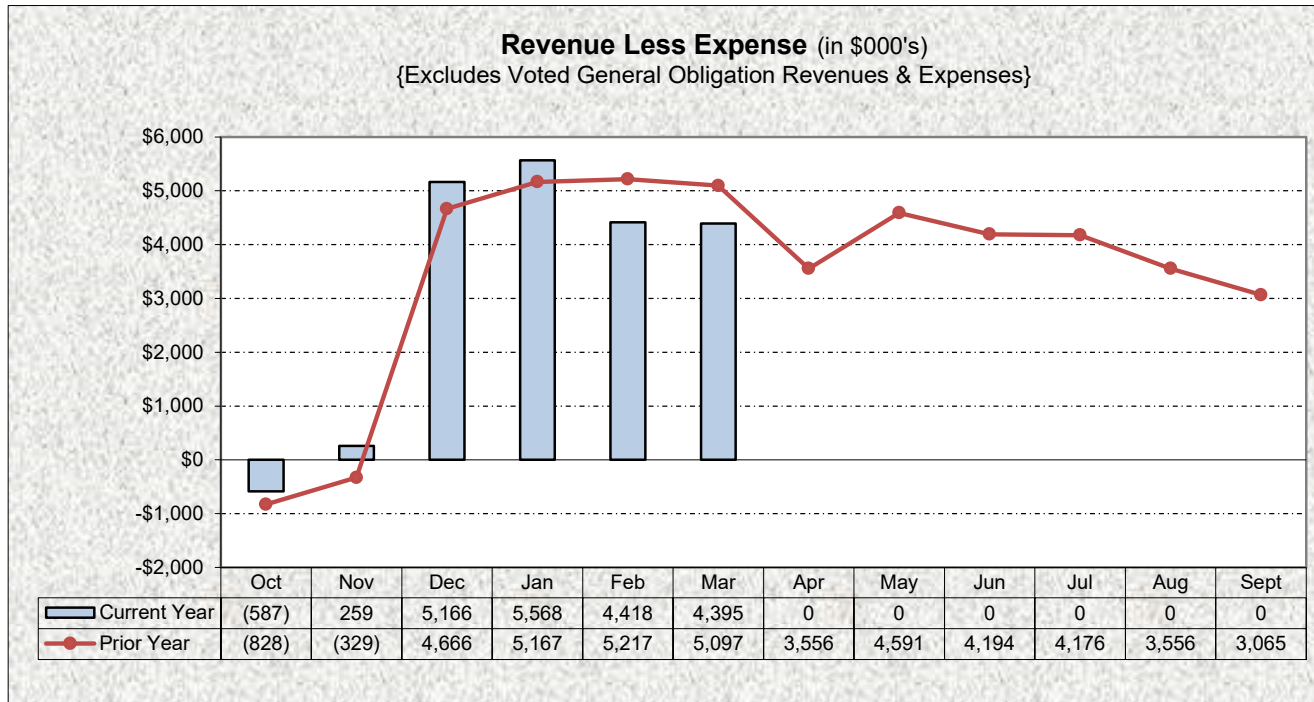
| CASH / INVESTMENT POSITIONS PERFORMANCE |                            |                          |                    |                |
|-----------------------------------------|----------------------------|--------------------------|--------------------|----------------|
|                                         | Current Month Current Year | Current Month Prior Year | 12-Month Change    | Percent Change |
| General Fund (excl. G.O. Funds)         | \$27,391,653               | \$25,734,887             | \$1,656,766        | 6%             |
| Sewer Fund                              | \$11,711,390               | \$10,053,400             | \$1,657,990        | 16%            |
| <b>Sub-Total Operating Funds</b>        | <b>\$39,103,043</b>        | <b>\$35,788,287</b>      | <b>\$3,314,756</b> | <b>9%</b>      |
| <b>TOTAL ALL FUNDS</b>                  | <b>\$39,103,043</b>        | <b>\$35,788,287</b>      | <b>\$3,314,756</b> | <b>9%</b>      |

| PROJECTED FISCAL YEAR END (FYE) CASH FLOW FROM NORMAL OPERATIONS** |                  |                  |                    |
|--------------------------------------------------------------------|------------------|------------------|--------------------|
|                                                                    | General Fund     | Sewer Fund       | Total              |
| Current Cash vs. Prior Year Ending Cash                            | \$5,240,098      | \$417,189        |                    |
| Add Back for Current Year CS Construction Expense                  | N/A              | N/A              |                    |
| Historical Mean Projected Remaining Cash Flow                      | (\$4,474,812)    | \$185,066        |                    |
| <b>PROJECTED FYE NORMALIZED CASH FLOW</b>                          | <b>\$765,286</b> | <b>\$602,255</b> | <b>\$1,367,541</b> |

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

Month Ending March, 2024

| NON-G.O. FUNDS                             | March, 2024     |                    | VERSUS PRIOR YEAR TO DATE |                                               |                     |
|--------------------------------------------|-----------------|--------------------|---------------------------|-----------------------------------------------|---------------------|
|                                            | Current Budget  | Current YTD Actual | Prior YTD Actual          | Vs. Prior Yr.<br>Favorable /<br>(Unfavorable) | % vs.<br>Prior Year |
| <b>Revenues ('000s)</b>                    |                 |                    |                           |                                               |                     |
| General Fund                               | \$19,904        | \$11,812           | \$11,644                  | \$168                                         | 1%                  |
| Utility Fund                               | \$4,533         | \$1,581            | \$1,537                   | \$44                                          | 3%                  |
| <b>Total Revenues &amp; Appropriations</b> | <b>\$24,437</b> | <b>\$13,393</b>    | <b>\$13,181</b>           | <b>\$212</b>                                  | <b>2%</b>           |
| <b>Expenses ('000s)</b>                    |                 |                    |                           |                                               |                     |
| General Fund Less Capital                  | \$16,670        | \$7,017            | \$4,258                   | (\$2,759)                                     | -65%                |
| General Fund Capital                       | \$3,234         | \$373              | \$321                     | (\$52)                                        | -16%                |
| Utility Fund                               | \$4,533         | \$1,607            | \$783                     | (\$824)                                       | -105%               |
| <b>Total Expenses &amp; Appropriations</b> | <b>\$24,437</b> | <b>\$8,997</b>     | <b>\$5,362</b>            | <b>(\$3,635)</b>                              | <b>-68%</b>         |
| <b>Revenue Less Expense ('000s)</b>        |                 |                    |                           |                                               |                     |
| General Fund                               | \$0             | \$4,422            | \$7,065                   | (\$2,643)                                     |                     |
| Utility Fund                               | \$0             | (\$26)             | \$754                     | (\$780)                                       |                     |
| <b>Revenue Less Expense</b>                | <b>\$0</b>      | <b>\$4,395</b>     | <b>\$7,819</b>            | <b>(\$3,423)</b>                              |                     |



## General Fund Detail Budget Report

Month Ending March, 2024

|                                      | March, 2024          |                      | VERSUS PRIOR YEAR TO DATE |                                         |                  |
|--------------------------------------|----------------------|----------------------|---------------------------|-----------------------------------------|------------------|
|                                      | Current Budget       | Current YTD Actual   | Prior YTD Actual          | Vs. Prior Yr. Favorable / (Unfavorable) | % vs. Prior Year |
| <b>Revenues/Sources</b>              |                      |                      |                           |                                         |                  |
| Ad-Valorem Taxes                     | 9,171,000            | 8,182,722            | 8,179,485                 | 3,237                                   | 0.04%            |
| Business Taxes                       | 101,900              | 75,223               | 95,584                    | (20,360)                                | -21.30%          |
| Utility Taxes                        | 1,031,800            | 475,157              | 437,528                   | 37,629                                  | 8.60%            |
| Permits & Franchise Fees             | 970,600              | 437,595              | 541,044                   | (103,449)                               | -19.12%          |
| Intergovernmental                    | 1,456,200            | 259,318              | 279,378                   | (20,060)                                | -7.18%           |
| Donations                            | -                    | 420                  | 0                         | 420                                     |                  |
| Charges for Services                 | 1,951,900            | 1,223,432            | 1,068,884                 | 154,549                                 | 14.46%           |
| Fines & Forfeitures                  | 97,800               | 83,180               | 37,607                    | 45,574                                  | 121.19%          |
| Non-G.O. Interest                    | 495,000              | 382,864              | 232,448                   | 150,416                                 | 64.71%           |
| Unrealized Investment G/(L)          | -                    | -                    | 0                         | -                                       |                  |
| Miscellaneous & Fixed Asset Sales    | 220,500              | 150,857              | 283,084                   | (132,227)                               | -46.71%          |
| Internal Services                    | 1,276,500            | 540,948              | 489,000                   | 51,948                                  | 10.62%           |
| Non G.O. Transfer In-Fund Balance    | 3,130,600            | -                    | 0                         | -                                       |                  |
| <b>Non-G.O. Gen. Fund Revenue</b>    | <b>\$ 19,903,800</b> | <b>\$ 11,811,716</b> | <b>\$ 11,644,039</b>      | <b>\$ 167,676</b>                       | <b>1.44%</b>     |
| <b>Operating Expenditures</b>        |                      |                      |                           |                                         |                  |
| <b>Excluding CAPITAL Expense</b>     |                      |                      |                           |                                         |                  |
| Legislative                          | 206,000              | 79,280               | 83,215                    | 3,935                                   | 4.73%            |
| Executive                            | 798,400              | 424,566              | 337,758                   | (86,809)                                | -25.70%          |
| Finance                              | 678,800              | 281,347              | 289,029                   | 7,683                                   | 2.66%            |
| Legal Counsel                        | 173,300              | 51,519               | 68,757                    | 17,238                                  | 25.07%           |
| Comp. Planning                       | 125,100              | 32,458               | 50,577                    | 18,119                                  | 35.82%           |
| Information Technology               | 628,500              | 198,678              | 0                         | (198,678)                               |                  |
| Other Gov't Services                 | 59,000               | 2,816                | 168,002                   | 165,187                                 | 98.32%           |
| Public Safety Operations             | 7,091,300            | 3,139,466            | 3,161,774                 | 22,308                                  | 0.71%            |
| Building Dept.                       | 717,100              | 343,066              | 294,754                   | (48,312)                                | -16.39%          |
| Emergency Mgmt - Hurricanes          | -                    | (134)                | 222,726                   | 222,860                                 | 100.06%          |
| Phy. Envir. -- Solid Waste/Recycle   | 1,672,900            | 788,822              | 440,356                   | (348,466)                               | -79.13%          |
| Public Works Operations              | 1,815,700            | 764,977              | 716,500                   | (48,478)                                | -6.77%           |
| Inventory                            | -                    | -                    | 0                         | -                                       |                  |
| Human Resources                      | 48,400               |                      | 65,766                    | 65,766                                  | 100%             |
| Parks & Rec                          | 554,800              | 321,506              | 228,327                   | (93,178)                                | -40.81%          |
| Community Center                     | 671,200              | 321,636              | 266,859                   | (54,776)                                | -20.53%          |
| Senior Center                        | -                    | -                    | 0                         | -                                       |                  |
| Economic Development Programs        | 100,000              | 14,577               | 9,298                     | (5,280)                                 | -56.78%          |
| Contingency/Transfers                | 1,084,400            | -                    | 0                         | -                                       |                  |
| Long-Term Debt                       | 344,700              | 267,293              | 0                         | (267,293)                               |                  |
| Non-G.O. Operations Expense          | 16,669,600           | 7,017,296            | 6,403,698                 | (628,175)                               | -9.81%           |
| Non-G.O. CAPITAL Expense             | 3,234,200            | 372,727              | 426,379                   | 53,652                                  |                  |
| <b>Total Non-G.O. Expense</b>        | <b>19,903,800</b>    | <b>7,390,022</b>     | <b>6,830,077</b>          | <b>(574,522)</b>                        |                  |
| <b>Non-G.O. Revenue Less Expense</b> | <b>\$ -</b>          | <b>\$ 4,421,694</b>  | <b>\$ 4,813,962</b>       | <b>\$ (406,846)</b>                     | <b>-8%</b>       |

# Utility Fund Detail Budget Report

Month Ending March, 2024

|                                       |                     |                    | VERSUS PRIOR YEAR TO DATE |                                         |                  |
|---------------------------------------|---------------------|--------------------|---------------------------|-----------------------------------------|------------------|
|                                       | Current Budget      | Current YTD Actual | Prior YTD Actual          | Vs. Prior Yr. Favorable / (Unfavorable) | % vs. Prior Year |
| <b>Fund 401</b>                       |                     |                    |                           |                                         |                  |
| <b>Operations Revenues</b>            |                     |                    |                           |                                         |                  |
| Charges for Services                  | \$ 4,301,700        | \$1,425,530        | \$1,480,670               | (\$55,140)                              | -4%              |
| Interest                              | 215,000             | 145,504            | 48,610                    | 96,894                                  | 199%             |
| Sale of Fixed Assets / Misc.          |                     | 0                  | 0                         | 0                                       |                  |
| <b>Total Operating Revenues</b>       | <b>\$ 4,516,700</b> | <b>\$1,571,034</b> | <b>\$1,529,280</b>        | <b>\$41,754</b>                         | <b>3%</b>        |
| <b>Operations Expenditures</b>        |                     |                    |                           |                                         |                  |
| Sewer Operating Incl. Depreciation    | \$ 4,516,700        | \$1,602,559        | \$1,251,291               | (\$351,268)                             | -28%             |
| - Less Debt Service Principal [a]     | 0                   | 0                  | 0                         |                                         |                  |
| - Less Not Offset Capital Expense [b] | 0                   | 0                  | 0                         |                                         |                  |
| <b>Total Operating Expense</b>        | <b>\$ 4,516,700</b> | <b>\$1,602,559</b> | <b>\$1,251,291</b>        | <b>(\$351,268)</b>                      | <b>-28%</b>      |
| <b>Operations Margin</b>              | <b>\$ -</b>         | <b>(\$31,524)</b>  | <b>\$277,989</b>          |                                         |                  |
| <b>% Gain/(Loss)</b>                  |                     | <b>-2%</b>         | <b>22%</b>                |                                         |                  |

## Fund 402

|                                |                  |                  |                 |                   |             |
|--------------------------------|------------------|------------------|-----------------|-------------------|-------------|
| <b>Impact Fee Revenues</b>     |                  |                  |                 |                   |             |
| Sewer Impact Fees              | \$ 16,100        | \$ 10,050        | \$7,625         | \$2,425           | 32%         |
| Impact Fee Interest            | 0                | 61               | 41              | 20                | 48%         |
| I.F. Approp. Retained Earnings |                  |                  |                 |                   |             |
| <b>Total IF Revenue</b>        | <b>\$ 16,100</b> | <b>\$ 10,111</b> | <b>\$ 7,666</b> | <b>\$ 2,445</b>   | <b>32%</b>  |
| <b>Impact Fee Expense</b>      |                  |                  |                 |                   |             |
| Sewer Impact Fee Exp           | \$ 16,100        | \$ 4,780         | \$2,868         | \$ (1,912)        | -67%        |
| <b>Total IF Expense</b>        | <b>\$ 16,100</b> | <b>\$ 4,780</b>  | <b>\$2,868</b>  | <b>\$ (1,912)</b> | <b>-67%</b> |
| <b>Impact Fee Margin</b>       | <b>\$ -</b>      | <b>\$ 5,331</b>  | <b>\$ 4,798</b> | <b>\$ 533</b>     | <b>11%</b>  |
| <b>% Gain/(Loss)</b>           |                  | <b>112%</b>      | <b>167%</b>     |                   |             |

## TOTAL FUND PERFORMANCE

|                                  |              |                   |                  |                    |  |
|----------------------------------|--------------|-------------------|------------------|--------------------|--|
| TOTAL FUND Revenue               | \$ 4,532,800 | \$1,581,145       | \$1,536,946      | \$44,199           |  |
| TOTAL FUND Expense               | \$ 4,532,800 | \$1,607,339       | \$1,254,159      | (\$353,180)        |  |
| <b>FUND Revenue Less Expense</b> |              | <b>(\$26,194)</b> | <b>\$282,787</b> | <b>(\$308,981)</b> |  |

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

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

**FISCAL YEAR-TO-DATE CAPITAL BUDGET ACCOUNT REPORT**  
Month Ending March, 2024

| <u>Department</u>              | <u>Description</u>                 | <u>Budgeted*</u> | <u>Paid</u>    | <u>last month</u> |
|--------------------------------|------------------------------------|------------------|----------------|-------------------|
| 51/10-20 Executive/Legislative |                                    | 500,000          | -              | -                 |
| 5130 Finance                   | Leases                             | 9,100            | -              | -                 |
| 5160 Information Technology    | Equipment                          | 185,500          | -              | -                 |
| 5210 Pub. Safety Admin         |                                    | -                | -              | -                 |
| 5211 Patrol/Fire/Rescue        | Equipment                          | 453,000          | -              | -                 |
| 5240 Building & Codes          | Equipment                          | 225,000          | 25,000         | -                 |
| 5410 Pub. Works Admin          |                                    | -                | -              | -                 |
| 5412 Pub. Works Blg. Maint     |                                    | 345,000          | 38,468         | -                 |
| 5413 Pub. Works Streets        | Equipment                          | 74,000           | 66,251         | -                 |
|                                | Road Improvements Misc.            | 208,200          | -              | -                 |
|                                | Gas Tax Financed                   |                  |                |                   |
|                                | Appropriated Road Improvements     |                  | -              | -                 |
|                                | Crosswalks                         | -                | -              | -                 |
| 5720 Parks                     | Improvements                       | 1,219,900        | 228,876        | -                 |
|                                | Equpment                           | 14,500           | 14,131         | -                 |
| 5751 Community Center          |                                    | -                | -              | -                 |
| 5752 Senior Center             |                                    | -                | -              | -                 |
| <b>GENERAL FUND TOTAL</b>      |                                    | <b>3,234,200</b> | <b>372,727</b> | <b>-</b>          |
| 401-5350 Sewer Operating       | IMPROVEMENTS                       |                  |                |                   |
|                                | Sewer Engineering and Project Cost | 2,259,400        | 14,229         | -                 |
|                                | EQUIPMENT                          | 37,000           | 18,557         | -                 |
|                                | Capital Offset to Depreciation Exp | (2,296,400)      | (32,786)       | -                 |
| 401-5351 Sewer Impact Fee      |                                    | -                | -              | -                 |
| <b>UTILITY FUND TOTAL</b>      |                                    | <b>-</b>         | <b>-</b>       | <b>-</b>          |
| <b>GRAND TOTAL</b>             |                                    | <b>3,234,200</b> | <b>372,727</b> | <b>-</b>          |

**INVESTMENT REPORT**  
March, 2024

**Policy Restrictions**

| <u>Investment</u>        | <u>Invest Class</u> | <u>Must</u> | <u>Int.Cap</u> | <u>Class Cap</u> | <u>Current</u> | <u>In Limits</u> |
|--------------------------|---------------------|-------------|----------------|------------------|----------------|------------------|
| SBA                      | SBA                 |             |                | None             | 0.0%           |                  |
| US Gov't Securities      | USGS                |             |                | 100%             | 66.8%          | Yes              |
| Cash & CDs               | CASH                |             |                | None             | 33.2%          | Yes              |
| Money Market Funds       | MMF                 |             |                | 20%              | 0.0%           |                  |
| Fed Instrum. & Agncy     | FIA                 |             |                | 30%              | 0.0%           |                  |
| Collat. Mortg. Obligtns. | CMO                 |             |                | 20%              | 0.0%           |                  |
| Commercial Paper         | CP                  |             |                | 10%              | 0.0%           |                  |
| FMIT                     | FMIT                |             |                | None             | 0.0%           |                  |

**Performance @Period Ending: March, 2024**

| <u>Institution</u>         | <u>Account</u> | <u>Maturity</u> | <u>Asset</u> | <u>Invest Class</u> | <u>Restriction</u> | <u>Account Value</u> | <u>Period Int. Rate</u> | <u>% of Portfolio</u> |
|----------------------------|----------------|-----------------|--------------|---------------------|--------------------|----------------------|-------------------------|-----------------------|
| SBA: Prime                 | 131031         |                 | Investment   | SBA                 | General Fund       | \$ 587               | 5.33%                   | 0%                    |
| SBA: Prime                 | 131032         |                 | Investment   | SBA                 | Sewer Fund         | \$ 587               | 5.33%                   | 0%                    |
| <b>TOTAL SBA</b>           |                |                 |              |                     |                    | <b>\$ 1,173</b>      |                         | <b>0.0%</b>           |
| U.S. Treasury Note         | 91282CER8      | 05/31/24        | Investment   | USGS                | General Fund       | \$ 2,672,650         | 1.26%                   | 7%                    |
| U.S. Treasury Bill         | 912796Y45      | 06/27/24        | Investment   | USGS                | General Fund       | \$ 2,023,164         | 3.11%                   | 5%                    |
| U.S. Treasury Bill         | 912797GP6      | 05/30/24        | Investment   | USGS                | General Fund       | \$ 2,778,825         | 2.61%                   | 7%                    |
| U.S. Treasury Bill         | 912796ZW2      | 06/20/24        | Investment   | USGS                | General Fund       | \$ 3,718,218         | 3.38%                   | 10%                   |
| U.S. Treasury Bill         | 912797KB2      | 08/15/24        | Investment   | USGS                | General Fund       | \$ 3,736,482         | 3.60%                   | 10%                   |
| U.S. Treasury Bill         | 912797HP5      | 11/29/24        | Investment   | USGS                | General Fund       | \$ 2,731,303         | 4.03%                   | 7%                    |
| U.S. Treasury Bill         | 912797FS1      | 06/13/24        | Investment   | USGS                | Sewer Fund         | \$ 1,538,486         | 7.07%                   | 4%                    |
| U.S. Treasury Bill         | 912797JV0      | 06/13/24        | Investment   | USGS                | Sewer Fund         | \$ 5,309,479         | 3.67%                   | 14%                   |
| U.S. Treasury Bill         | 912796ZW2      | 05/07/24        | Investment   | USGS                | Sewer Fund         | \$ 1,593,522         | 3.38%                   | 4%                    |
| <b>TOTAL US TREASURIES</b> |                |                 |              |                     |                    | <b>\$ 26,102,129</b> |                         | <b>66.8%</b>          |
| Bank of America            | 004537065882   |                 | Cash         | CASH                | Working Cash       | \$ 10,221,373        | 0.00%                   | 26%                   |
| Bank of America            | 005562564319   |                 | Cash         | CASH                | Sewer Operating    | \$ 1,811,051         | 1.14%                   | 5%                    |
| Bank of America            | 005562564351   |                 | Cash         | CASH                | Sewer Impact Fee   | \$ 10,744            | 1.14%                   | 0%                    |
| JP Morgan Chase            | 663652210      |                 | Cash         | CASH                | Working Cash       | \$ 794,110           | 0.00%                   | 2%                    |
| JP Morgan Chase CD         | 100079555936   |                 | Cash         | CD                  | Pool Cash          | \$ 102,949           | 1.85%                   | 0%                    |
| Seacoast Bank              | 4810004966     |                 | Cash         | CASH                | Sewer Operating    | \$ 22,651            | 0.15%                   | 0%                    |
| Seacoast Bank              | 4810000706     |                 | Cash         | CASH                | Working Cash       | \$ 36,864            | 0.15%                   | 0%                    |
| <b>TOTAL BANKS</b>         |                |                 |              |                     |                    | <b>\$ 12,999,741</b> |                         | <b>33.2%</b>          |

|                                                        |                     |
|--------------------------------------------------------|---------------------|
| <b>TOTAL CURRENT VALUE @ PERIOD END</b>                | <b>\$39,103,043</b> |
| <b>WEIGHTED AVERAGE TOTAL RETURN FOR CURRENT MONTH</b> | <b>2.3530%</b>      |

| <u>CHANGE IN CASH &amp; INVESTMENTS (Incl. interfund transfers)</u> | <u>Current Value</u> | <u>Vs. Last Month</u> | <u>Vs. Prior Year To Date</u> | <u>Vs. Prior Fiscal Year End</u> |
|---------------------------------------------------------------------|----------------------|-----------------------|-------------------------------|----------------------------------|
| G.O. Construction & Debt Service Funds                              | \$ -                 | \$ -                  | \$ -                          | \$ -                             |
| General Fund (excl. G.O. Funds)                                     | \$ 27,391,653        | \$ 27,397,297         | \$ 25,734,887                 | \$ 22,691,737                    |
| Sewer Fund                                                          | \$ 11,711,390        | \$ 12,006,104         | \$ 10,053,400                 | \$ 11,378,235                    |
| <b>TOTAL</b>                                                        | <b>\$ 39,103,043</b> | <b>\$ 39,403,401</b>  | <b>\$ 35,788,288</b>          | <b>\$ 34,069,972</b>             |
| <b>Percent Change for Current</b>                                   | <b>N/A</b>           | <b>-0.8%</b>          | <b>9.3%</b>                   | <b>14.8%</b>                     |

**Portfolio Report**  
March, 2024

| GENERAL FUND     |                                           |              |               |                |             |                           |
|------------------|-------------------------------------------|--------------|---------------|----------------|-------------|---------------------------|
| Agent            | Security Type (Last Digits Account ID)    | Cost Basis   | Yield to Cost | Market Value   | Gain / Loss | Annual Income @ Cur. Int% |
| SBA              | Investment-General (031)                  | \$587        | 5.60%         | \$ 587         | \$0         | \$33                      |
| BoA              | Cash-Pool Cash Account (5882)             | \$10,221,373 | 0.00%         | \$ 10,221,373  | \$0         | \$478                     |
|                  | <i>Includes Contraband Pool Cash</i>      |              |               | \$ 72,041      |             | \$0                       |
|                  | <i>Includes Economic Development Cash</i> |              |               | \$ 571,770     |             | \$0                       |
|                  | <i>Less: Pool Cash Due to Sewer Funds</i> |              |               | \$ (1,234,635) |             | \$0                       |
| Seacoast         | Cash-Pool Cash Account (0706)             | \$36,864     | 0.15%         | \$ 36,864      | \$0         | \$55                      |
| Chase            | Cash-Pool Cash (2110)                     | \$794,110    | 0.00%         | \$ 794,110     | \$0         | \$0                       |
|                  | <i>Less: Pool Cash Due to Sewer Fund</i>  |              |               | \$ (190,237)   |             | \$0                       |
|                  | CD (5936)                                 | \$102,949    | 1.85%         | \$ 102,949     | \$0         | \$1,905                   |
| JP Morgan        | US Treasury Securities                    | \$17,563,746 | 1.67%         | \$ 17,660,642  | \$96,896    | \$293,785                 |
| ALL GENERAL FUND |                                           |              | 1.40%         | \$ 27,391,653  | \$96,896    | \$296,256                 |
| PRIOR MONTH      |                                           |              |               | \$ 27,397,297  |             |                           |

| SEWER OPERATING          |                                             |             |       |               |          |           |
|--------------------------|---------------------------------------------|-------------|-------|---------------|----------|-----------|
| SBA                      | Investment (032)                            | \$587       | 5.60% | \$ 587        | \$0      | \$33      |
| BoA                      | Sewer Operating Fund (4319)                 | \$1,811,051 | 1.14% | \$ 1,811,051  |          | \$20,646  |
| Seacoast                 | Cash (4966)                                 | \$22,651    | 0.15% | \$ 22,651     | \$0      | \$34      |
|                          | <i>Add: Pool Cash Due From General Fund</i> |             |       | \$ 1,355,434  |          | \$0       |
| JP Morgan                | US Treasury Securities                      | \$8,404,610 | 3.60% | \$ 8,441,487  | \$36,877 | \$302,413 |
| ALL SEWER OPERATING FUND |                                             |             | 3.52% | \$ 11,631,208 | \$36,877 | \$323,125 |
| PRIOR MONTH              |                                             |             |       | \$ 11,926,007 |          |           |

| SEWER IMPACT FEES (Restricted) |                                          |  |       |           |     |       |
|--------------------------------|------------------------------------------|--|-------|-----------|-----|-------|
| BoA                            | Sewer Impact Fees (4351)                 |  | 1.14% | \$ 10,744 |     | \$122 |
|                                | <i>Cash-Pool Cash Due From Gen. Fund</i> |  |       | \$ 69,438 |     | \$0   |
| ALL SEWER IMPACT               |                                          |  | 0.15% | \$ 80,182 | \$0 | \$122 |
| PRIOR MONTH                    |                                          |  |       | \$ 80,097 |     |       |

|                  |  |  |       |               |           |           |
|------------------|--|--|-------|---------------|-----------|-----------|
| ALL FUNDS        |  |  | 1.58% | \$ 39,103,043 | \$133,773 | \$619,503 |
| PRIOR MONTH      |  |  |       | \$ 39,403,401 |           |           |
| MONTHLY CHANGE   |  |  |       | \$ (300,358)  |           |           |
| MONTHLY CHANGE % |  |  |       | -0.8%         |           |           |

# United States Government Securities

March, 2024

| GENERAL FUND     |                                        |           |               |               |                      |             |               |                   |               |            |                  |                    |
|------------------|----------------------------------------|-----------|---------------|---------------|----------------------|-------------|---------------|-------------------|---------------|------------|------------------|--------------------|
| Agent            | Security Type (Last Digits Account ID) | Cusip     | Purchase Date | Maturity Date | Par Value/Face Value | Coupon Rate | Cost Basis    | Yield to Maturity | Market Value  | Market G/L | Accrued Interest | Income to Maturity |
| J.P.Morgan       | US Treasury Note (24-month)            | 91282CER8 | 06/10/22      | 05/31/24      | \$ 2,685,000         | 2.500%      | \$ 2,681,912  | 1.26%             | \$ 2,672,650  | \$ (9,263) | \$ 5,319         | \$ 25,649          |
| J.P.Morgan       | US Treasury Bill (6-month)             | 912796Y45 | 01/04/24      | 06/27/24      | \$ 2,049,000         |             | \$ 1,999,791  | 3.11%             | \$ 2,023,164  | \$ 23,374  |                  | \$ 49,209          |
| J.P.Morgan       | US Treasury Bill (6-month)             | 912797GP6 | 02/27/24      | 05/30/24      | \$ 2,803,000         |             | \$ 2,766,386  | 2.61%             | \$ 2,778,825  | \$ 12,439  |                  | \$ 36,614          |
| J.P.Morgan       | US Treasury Bill (6-month)             | 912796ZW2 | 03/21/24      | 06/20/24      | \$ 3,767,400         |             | \$ 3,718,218  | 3.38%             | \$ 3,718,218  | \$ -       |                  | \$ 49,182          |
| J.P.Morgan       | US Treasury Bill (3-month)             | 912797KB2 | 02/13/24      | 08/15/24      | \$ 3,810,000         |             | \$ 3,712,921  | 3.60%             | \$ 3,736,482  | \$ 23,561  |                  | \$ 97,079          |
| J.P.Morgan       | US Treasury Bill (12-month)            | 912797HP5 | 11/30/23      | 11/29/24      | \$ 2,824,000         |             | \$ 2,684,518  | 4.03%             | \$ 2,731,303  | \$ 46,785  |                  | \$ 139,482         |
| ALL GENERAL FUND |                                        |           |               |               | \$ 17,938,400        |             | \$ 17,563,746 |                   | \$ 17,660,642 | \$ 96,896  | \$ 5,319         | \$ 160,654         |
| PRIOR MONTH      |                                        |           |               |               |                      |             |               |                   | \$ 17,534,644 |            |                  | 1.67%              |

| SEWER FUND               |                            |           |          |          |              |  |              |       |              |           |  |            |
|--------------------------|----------------------------|-----------|----------|----------|--------------|--|--------------|-------|--------------|-----------|--|------------|
| J.P.Morgan               | US Treasury Bill (6-month) | 912797FS1 | 12/14/23 | 06/13/24 | \$ 1,579,000 |  | \$ 1,538,486 | 7.07% | \$ 1,538,486 | \$ -      |  | \$ 40,514  |
| J.P.Morgan               | US Treasury Bill (4-month) | 912797JV0 | 01/11/24 | 05/07/24 | \$ 5,362,000 |  | \$ 5,272,602 | 3.67% | \$ 5,309,479 | \$ 36,877 |  | \$ 89,398  |
| J.P.Morgan               | US Treasury Bill (6-month) | 912796ZW2 | 03/21/24 | 06/20/24 | \$ 1,614,600 |  | \$ 1,593,522 | 3.38% | \$ 1,593,522 | \$ -      |  | \$ 21,078  |
| ALL SEWER OPERATING FUND |                            |           |          |          | \$ 8,555,600 |  | \$ 8,404,610 |       | \$ 8,441,487 | \$ 36,877 |  | \$ 150,990 |
| PRIOR MONTH              |                            |           |          |          |              |  |              |       | \$ 8,419,220 |           |  | 3.60%      |

|                  |  |  |  |  |               |  |               |  |               |            |  |       |
|------------------|--|--|--|--|---------------|--|---------------|--|---------------|------------|--|-------|
| ALL FUNDS        |  |  |  |  | \$ 26,494,000 |  | \$ 25,968,356 |  | \$ 26,102,129 | \$ 133,773 |  | 1.37% |
| PRIOR MONTH      |  |  |  |  |               |  |               |  | \$ 26,046,267 |            |  |       |
| MONTHLY CHANGE   |  |  |  |  |               |  |               |  | \$ 55,862     |            |  |       |
| MONTHLY CHANGE % |  |  |  |  |               |  |               |  | 0.2%          |            |  |       |



## **CITY COMMISSION AGENDA MEMORANDUM APRIL 23, 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 2024-08: Voluntary Annexation, 3635 Cardinal Boulevard

### **SYNOPSIS:**

IGS Holdings, LLC, property owner of the unincorporated Volusia County single-family residential property located at 3635 Cardinal Boulevard (Exhibit 1), has petitioned the City of Daytona Beach Shores for voluntary annexation into the City's corporate limits (Exhibit 2) pursuant to Section 171.044, Florida Statutes. The owner purchased the property in September 2022. If adopted, Ordinance 2024-08 will annex the subject property and adjacent right-of-way (to centerline) into the City limits of Daytona Beach Shores.

### **FISCAL IMPACT STATEMENT:**

No fiscal impact for fiscal year 2023-24. If adopted, there would be an increase in ad valorem revenue for fiscal year 2025-26

### **BACKGROUND:**

The subject property is approximately 0.23 of an acre with dimensions of 102' x 100'. The property contains a three-story four-unit residential structure (Exhibit 3). Each unit has a floor area of 1,998 square feet. Pursuant to Section 171.062, Florida Statutes, the owners have also submitted applications to amend the future land use and zoning classifications of the property in question to those of the City. The future land use amendment and rezoning ordinances will be adopted subsequent to the formal annexation of the subject property.

Exhibit 4 attached provides a general description of the subject property, while Exhibit 5 demonstrates compliance with the voluntary annexation requirements prescribed in Section 171.044, Florida Statutes.

### **LEGAL REVIEW:**

### **RECOMMENDATION:**

Staff recommends approval of Ordinance 2024-08 as presented.

**SUGGESTED MOTION:**

A City Commissioner may motion as follows:

"I move to approve Ordinance 2024-08 as presented."

- ATTACHMENT:**
1. Ord 2024-08-Voluntary Annexation-3635 Cardinal
  2. Ord 2024-08-Staff Report Exhibits

**ORDINANCE NO. 2024-08**

**AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RELATING TO VOLUNTARY ANNEXATION OF REAL PROPERTY LOCATED AT 3635 CARDINAL BOULEVARD (SHORT PARCEL IDENTIFICATION NUMBER 6302-05-09-0041) TOGETHER WITH ASSOCIATED RIGHT-OF-WAYS IN ACCORDANCE WITH SECTION 171.044, *FLORIDA STATUTES*; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; REDEFINING THE BOUNDARIES OF THE CITY; PROVIDING FOR LEGAL EFFECT AND IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, PROVIDING FOR NON-CODIFICATION AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, IGS Holdings Limited Liability Company, property owner, applied for annexation of property into the City of Daytona Beach Shores and is hereby determined to be the fee simple title owner of the real property described below; and

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

**WHEREAS**, the subject property is currently addressed 3635 Cardinal Boulevard; and

**WHEREAS**, the subject property currently has a Short Tax Parcel Identification Number 6302-05-09-0041; and

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

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

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

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

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

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

; and

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

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

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

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

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

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

THE WEST 1/2 OF LOTS 4 AND 5, BLOCK 9, LYING  
EASTERLY OF CARDINAL DRIVE, MAP OF OCEAN VIEW  
SECTION OF HALIFAX ESTATES, ACCORDING TO THE  
PLAT THEREOF, AS RECORDED IN MAP BOOK 11, 1  
TOGETHER WITH THE EASTERLY 1/2 OF CARDINAL  
DRIVE LYING SOUTHERLY OF THE NORTH LINE OF LOT  
4 AND LYING NORTHERLY OF THE SOUTH LINE OF LOT  
5, SAID BLOCK 9, MAP OF OCEAN VIEW SECTION OF  
HALIFAX ESTATES, BEING MORE PARTICULARLY  
DESCRIBED AS FOLLOWS:  
BEGIN AT THE INTERSECTION OF THE NORTH LINE OF  
SAID LOT 4 AND THE CENTERLINE OF CARDINAL DRIVE,  
A 70 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE  
EASTERLY ALONG THE NORTH LINE OF OF SAID LOT 4  
TO THE EAST LINE OF THE WEST 1/2 OF LOT 4; THENCE  
SOUTHERLY ALONG EAST LINE OF THE WEST 1/2 OF LOT  
4 AND EAST LINE OF THE WEST 1/2 OF LOT 5 TO THE  
SOUTH LINE OF LOT 5; THENCE WESTERLY ALONG SAID  
SOUTH LINE TO THE SAID CENTERLINE OF CARDINAL  
DRIVE; THENCE NORTHERLY ALONG SAID CENTERLINE  
TO THE POINT OF BEGINNING. CONTAINING 0.316  
ACRES, MORE OR LESS.

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

**SECTION FOUR: ADMINISTRATIVE IMPLEMENTING ACTIONS.**

(a). Within seven (7) days of the adoption of this Ordinance, the City Clerk shall file a copy of said Ordinance with the Clerk of the Court (Land Records/Recording), with the Chief Administrative Officer of Volusia County (the County Manager), with the Florida

Department of State, and with such other agencies and entities as may be required by law or otherwise desirable.

(b). The City Manager, or designees within City management staff, shall ensure that the property annexed by this Ordinance is incorporated into the City of Daytona Beach Shores *Comprehensive Plan* and the *Official Zoning Map* of the City of Daytona Beach Shores in an expeditious manner and, in accordance with, and pursuant to, the provisions of Under the authority of Section 166.031(3), *Florida Statutes*, the City Manager, or designees, shall amend the boundaries of the City to include the property annexed in this Ordinance and all previously annexed properties in all maps and geographical data relating to the City Limits said properties to include, but not be limited to, annexed rights-of-way and natural features.

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

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

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

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

**CITY OF DAYTONA BEACH SHORES, FLORIDA**

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**NANCY MILLER, MAYOR**

---

**KURT SWARTZLANDER, CITY MANAGER      CHERI SCHWAB, CITY CLERK**

**Approved as to form and legality:**

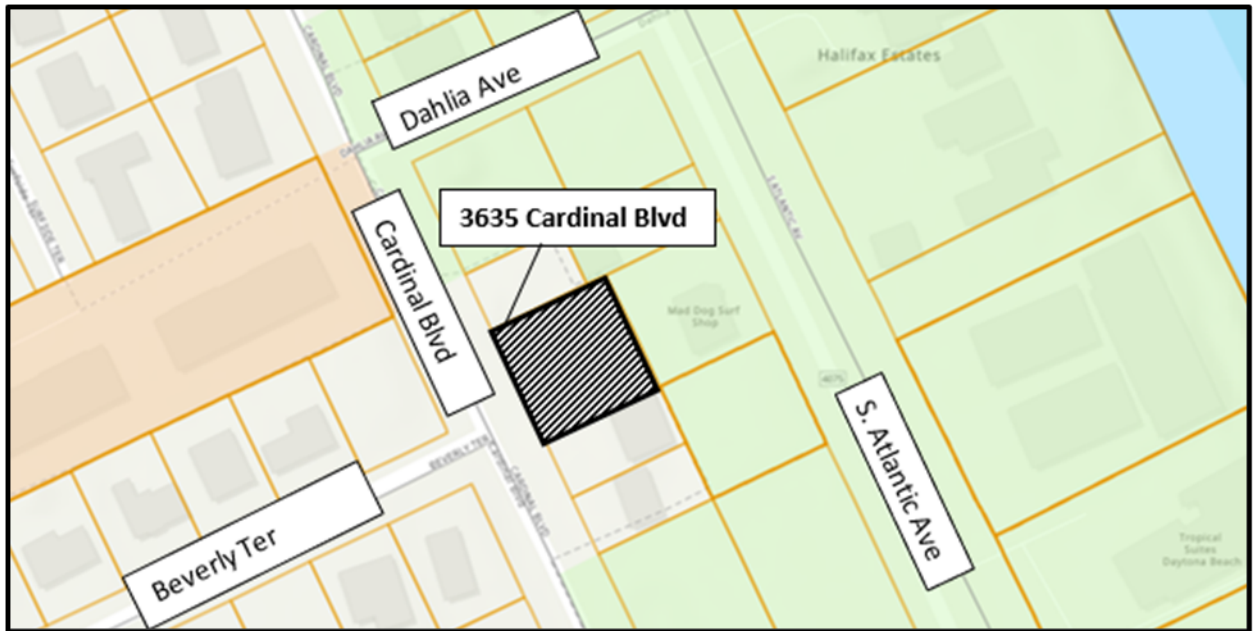
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**GRETCHEN R.H. "BECKY" VOSE, CITY ATTORNEY**

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.  
Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

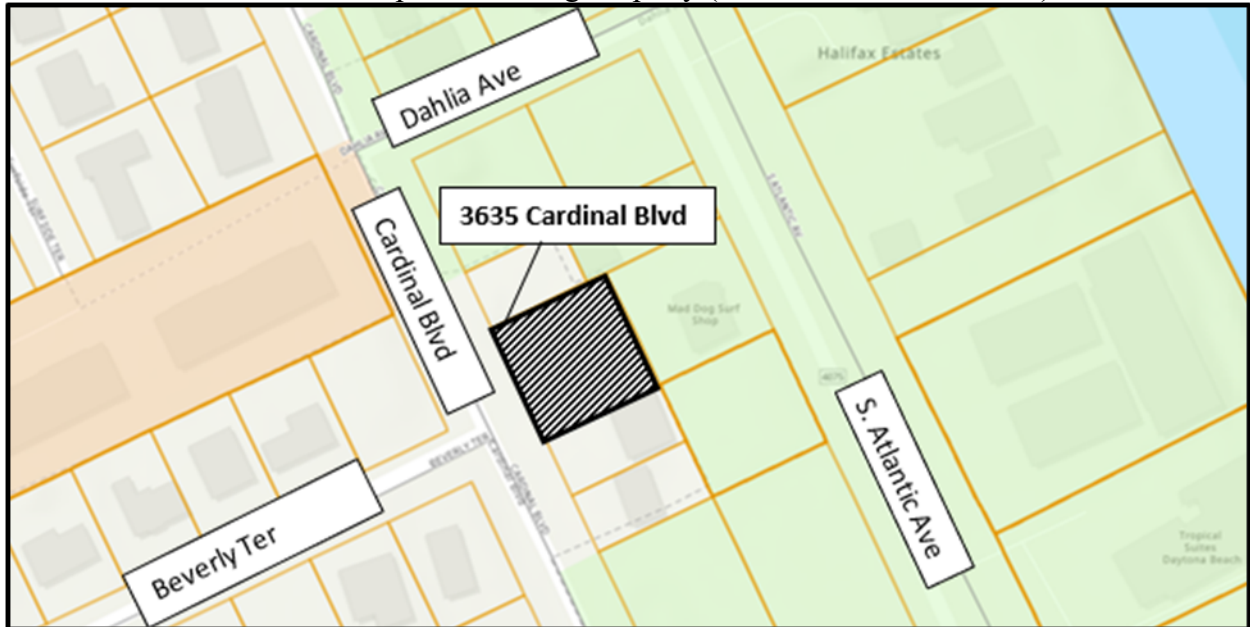
## EXHIBIT A

### (1) Location Map of Annexing Property (3635 Cardinal Boulevard)



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

**EXHIBIT 1: Location Map of Annexing Property (3635 Cardinal Boulevard)**



**Source:** Volusia County Property Appraiser Website, 2024

## A: Annexation Application



Page 62 of 146

**EXHIBIT 2**  
**B: Property Appraiser Website Owner Information**



VOLUSIA COUNTY PROPERTY APPRAISER

**LARRY BARTLETT, JD, CFA**

WE VALUE VOLUSIA

Agriculture

Maps

Tangible Prop

Search ▾

Downloads ▾

Home / Parcel Summary for 3569059

Summary

Tax Estimate

Permits

Map

Pictometry

Print

**Alternate Key:**

3569059

**Parcel ID:**

630205090041

**Township-Range-Section:**

16 - 33 - 02

**Subdivision-Block-Lot:**

05 - 09 - 0041

**Physical Address:**

3635 CARDINAL BLVD, PORT ORANGE 32118

**Owner(s):**

IGS HOLDINGS LIMITED LIABILITY COMPANY - FS - Fee Simple - 100%

**Mailing Address On File:**

629 S FORTH ST STE 302  
LOUISVILLE KY 40202  
[Update Mailing Address](#)

**Building Count:**

1

**Living Units:**

0

**Neighborhood:**

3109 - HALIFAX ESTATES (6302-01)----  
[Neighborhood Sales](#)

**Subdivision Name:**

**Property Use:**

0800 - MFR <10 UNITS

**Tax District:**

200-UNINCORPORATED - NORTHEAST

**2023 Final Millage Rate:**

17.8598

**Homestead Property:**

No - [Apply for Homestead Online](#)

**Agriculture Classification:**

No - [Additional Information](#)

**Short Description:**

W 1/2 OF LOTS 4 & 5 BLK 9 OCEAN VIEW SEC HALIFAX ESTS PER OR  
4348 PG 1353 PER OR 8311 PG 2889

### EXHIBIT 3

**A:** Aerial View of Annexing Property (3635 Cardinal Boulevard)



Source: Volusia County Property Appraiser Website, 2021

**B:** Street View of Annexing Property (3635 Cardinal Boulevard)



Source: GoogleMaps, 2018

**EXHIBT 4  
PRE-ANNEXATION FORM**

Name of Property Owner: IGS Holdings, LLC

Property Address/Tax Parcel ID: 3635 Cardinal Blvd. / 6302-05-09-0041

Lot Size: 102' x 100' = 10,200sf (0.23 acres)

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

How is property contiguous? East X West        North X South       

Property Appraiser Just/Market Value: \$1,063,103 (2023 Final)

Homesteaded Property: Yes        No X

Special Flood Hazard Area? Yes        No X

Improved Lot X Unimproved Lot (Vacant)       

Existing Use: Residential (Quadplex)

Conforming Land Use:        Non-Conforming Land Use: X Explain: Zoning and Future Land Use assigned will be comparable to existing Volusia County Two Single Family Residential district. Quadplex (4 units) are not permitted in the city's single family residential districts. Therefore, the property will be "grandfathered" and subject to the LDC, Chapter 14, Article VI "Nonconforming Provisions."

Existing County Zoning: R-6 Urban Two-Family Residential District

Existing County Land Use: Urban Low Intensity

Condition of Property: Poor        Good X Excellent       

Water: Port Orange X Daytona Beach       

Sanitary: Sewer X Septic Tank       

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

Metes and Bounds Survey conducted? Yes X No       

Property Subject To Code Enforcement Action? Yes        No X

Prepared by: Stewart Cruz, Community Services Director Date: March 29, 2024

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

| Section    | Annexation Criteria                                                                     | Criteria Met | Comments                                                                                                                                                                                                                                   |
|------------|-----------------------------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 171.044(1) | Property must be contiguous to the City.                                                | Yes          | Per Sec. 171.031(11), subject property is contiguous to the City to the North and East.                                                                                                                                                    |
| 171.044(1) | Property must be reasonably compact.                                                    | Yes          | Per Sec. 171.031(12), subject property is reasonably compact and will not create new enclaves, pockets or finger areas in serpentine patterns. In addition, the annexation will aid in reducing the larger county enclave in the vicinity. |
| 171.044(2) | Petition bears the signatures of all owners of property.                                | Yes          | Yes.                                                                                                                                                                                                                                       |
| 171.044(2) | Meet publication requirements.                                                          | Yes          | Evidence filed with the Office of the City Clerk.                                                                                                                                                                                          |
| 171.044(3) | Ordinance shall be filed per statute.                                                   | Pending      | Ordinance filing will occur per statutory deadline subsequent to the Ordinance's adoption.                                                                                                                                                 |
| 171.044(3) | Ordinance shall include a map and legal description by metes and bounds.                | Yes          | See Ordinance 2024-08                                                                                                                                                                                                                      |
| 171.044(4) | Annexation method shall be supplemental to any other procedure provided by general law. | N/A          |                                                                                                                                                                                                                                            |
| 171.044(5) | Annexation shall not create enclaves.                                                   | Yes          | Per Sec. 171.031(13), subject property does not create an enclave. In fact the annexation will reduce the larger County enclave that currently exists in this area.                                                                        |
| 171.044(6) | Provision of notice to County Commissioners per statute.                                | Yes          | Notice provided via certified mail per statutory requirement.                                                                                                                                                                              |



## **CITY COMMISSION AGENDA MEMORANDUM APRIL 23, 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 2024-09: Voluntary Annexation, 129 Esmeralda Avenue

### **SYNOPSIS:**

Anne Bressan Harrington Trust, property owner of the unincorporated Volusia County single-family residential property located at 129 Esmeralda Avenue (Exhibit 1), has petitioned the City of Daytona Beach Shores for voluntary annexation into the City's corporate limits (Exhibit 2) pursuant to Section 171.044, Florida Statutes. The owner purchased the property in April 2023. If adopted, Ordinance 2024-09 will annex the subject property and adjacent right-of-way (to centerline) into the City limits of Daytona Beach Shores.

### **FISCAL IMPACT STATEMENT:**

No fiscal impact for 2023-24 fiscal year. If adopted this property would be on the city's tax roll for the 2025-26 budget year.

### **BACKGROUND:**

The subject property is approximately 0.18 of an acre with dimensions of 64' x 125'. The property contains a single-family residential structure (Exhibit 3) with a floor area of 1,580 square feet. Pursuant to Section 171.062, Florida Statutes, the owners have also submitted applications to amend the future land use and zoning classifications of the property in question to those of the City. The future land use amendment and rezoning ordinances will be adopted subsequent to the formal annexation of the subject property.

Exhibit 4 attached provides a general description of the subject property, while Exhibit 5 demonstrates compliance with the voluntary annexation requirements prescribed in Section 171.044, Florida Statutes.

### **LEGAL REVIEW:**

### **RECOMMENDATION:**

Staff recommends approval of Ordinance 2024-09 as presented.

**SUGGESTED MOTION:**

A City Commissioner may motion as follows:

"I move to approve Ordinance 2024-09 as presented."

- ATTACHMENT:**
1. Ord 2024-09-Voluntary Annexation-129 Esmeralda
  2. Ord 2024-09-Staff Report Exhibits

**ORDINANCE NO. 2024-09**

**AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RELATING TO VOLUNTARY ANNEXATION OF REAL PROPERTY LOCATED AT 129 ESMERALDA AVENUE (SHORT PARCEL IDENTIFICATION NUMBER 5335-01-05-0360) TOGETHER WITH ASSOCIATED RIGHT-OF-WAYS IN ACCORDANCE WITH SECTION 171.044, *FLORIDA STATUTES*; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; REDEFINING THE BOUNDARIES OF THE CITY; PROVIDING FOR LEGAL EFFECT AND IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, PROVIDING FOR NON-CODIFICATION AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, Anne Bressan Harrington Trust, property owner, applied for annexation of property into the City of Daytona Beach Shores and is hereby determined to be the fee simple title owner of the real property described below; and

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

**WHEREAS**, the subject property is currently addressed 129 Esmeralda Avenue; and

**WHEREAS**, the subject property currently has a Short Tax Parcel Identification Number 5335-01-05-0360; and

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

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

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

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

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

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

; and

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

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

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

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

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

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

DESCRIPTION:

THE EASTERLY 14-1/3 FEET OF LOT 35 AND ALL OF LOTS 36 AND 37, BLOCK E, RIOMAR BEACHES, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 6, PAGE 95, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH THE NORTHERLY 1/2 OF ESMERALDA AVENUE LYING EASTERLY OF THE EAST LINE OF EAST 14-1/3 FEET OF LOT 35 AND LYING WESTERLY OF THE EAST LINE OF LOT 37, SAID BLOCK E, RIOMAR BEACHES, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE EAST LINE OF SAID LOT 37 AND THE CENTERLINE OF ESMERALDA AVENUE, A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE WESTERLY ALONG SAID CENTERLINE TO THE WESTERLY LINE OF THE EASTERLY 14-1/3 FEET OF LOT 35; THENCE NORTHERLY ALONG SAID WESTERLY LINE OF THE EASTERLY 14-1/3 FEET OF LOT 35 TO THE NORTHERLY LINE OF LOT 35; THENCE ALONG THE SAID NORTHERLY LINE OF LOT 35 AND THE NORTH LINE OF LOTS 36 AND 37 TO THE EASTERLY LINE OF LOT 37; THENCE SOUTHERLY ALONG THE SAID EASTERLY LINE OF LOT 37 TO THE POINT OF BEGINNING. CONTAINING 0.244 ACRES, MORE OR LESS.

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

determined by the governing authority of the City and the provisions of said Chapter 171, *Florida Statutes*.

**SECTION FOUR: ADMINISTRATIVE IMPLEMENTING ACTIONS.**

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

(b). The City Manager, or designees within City management staff, shall ensure that the property annexed by this Ordinance is incorporated into the City of Daytona Beach Shores *Comprehensive Plan* and the *Official Zoning Map* of the City of Daytona Beach Shores in an expeditious manner and, in accordance with, and pursuant to, the provisions of Under the authority of Section 166.031(3), *Florida Statutes*, the City Manager, or designees, shall amend the boundaries of the City to include the property annexed in this Ordinance and all previously annexed properties in all maps and geographical data relating to the City Limits said properties to include, but not be limited to, annexed rights-of-way and natural features.

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

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

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

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

**CITY OF DAYTONA BEACH SHORES, FLORIDA**

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**NANCY MILLER, MAYOR**

---

**KURT SWARTZLANDER, CITY MANAGER    CHERI SCHWAB, CITY CLERK**

**Approved as to form and legality:**

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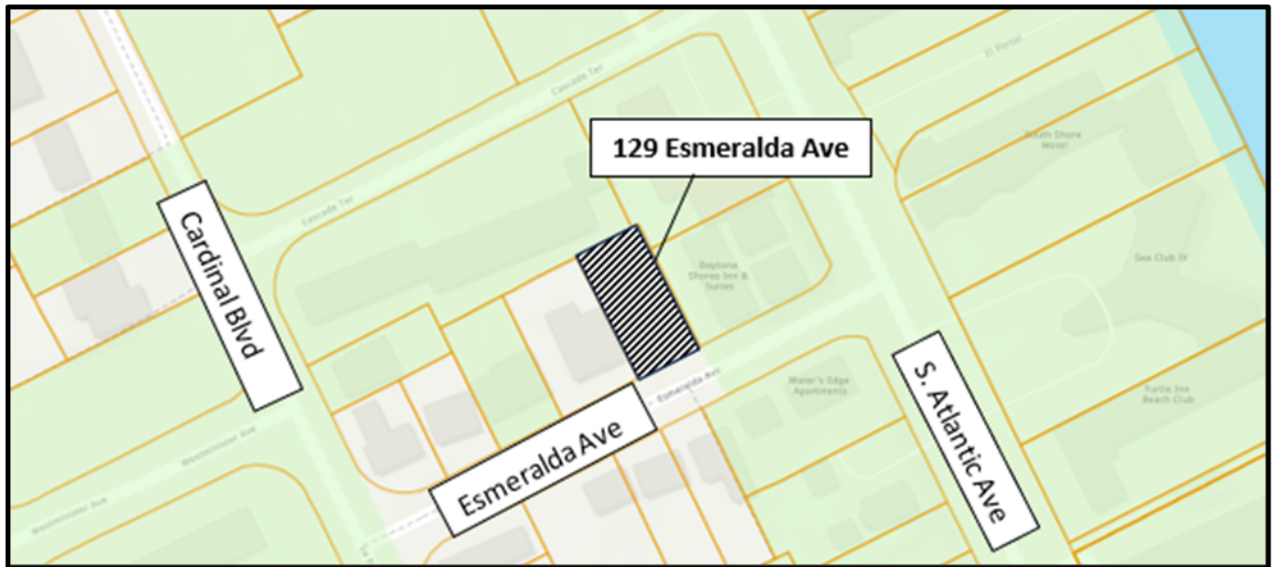
**GRETCHEN R.H. “BECKY” VOSE, CITY ATTORNEY**

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

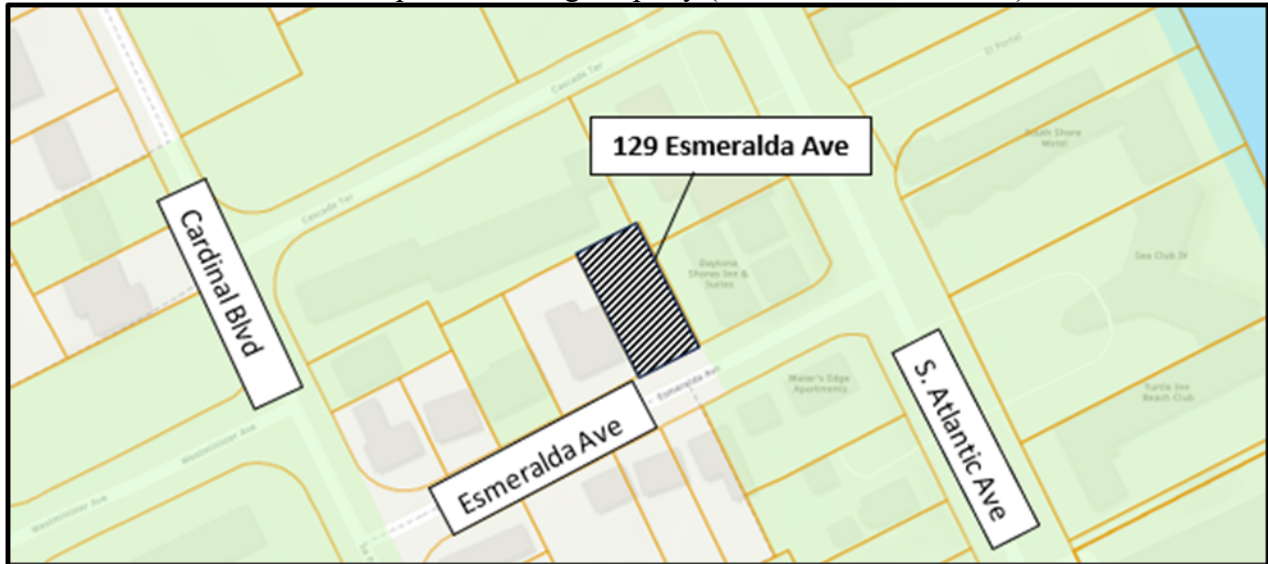
## EXHIBIT A

### (1) Location Map of Annexing Property (129 Esmeralda Avenue)



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

**EXHIBIT 1: Location Map of Annexing Property (129 Esmeralda Avenue)**



**Source:** Volusia County Property Appraiser Website, 2024

**EXHIBIT 2**  
**A: Annexation Application**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                |                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <div style="border: 1px solid black; padding: 5px;"><b>City of Daytona Beach Shores</b><br/>Building &amp; Codes Division<br/>2990 S. Atlantic Avenue<br/>Daytona Beach Shores, FL 32118<br/>Telephone (386) 763-5377 Fax (386) 763-5370</div> | <b>250112</b><br><b>RECEIVED</b><br><b>JAN 17 2024</b><br>BUILDING AND CODES DIVISION<br>CITY OF DAYTONA BEACH SHORES |
| <div style="font-size: 2em; font-weight: bold; color: blue;">12024007</div> <div style="font-weight: bold; color: black;">REQUEST FOR ANNEXATION</div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                |                                                                                                                       |
| <div style="display: flex; justify-content: space-between;"><div style="width: 40%;"><div style="text-align: center; color: blue; font-size: 1.5em;">1/17/2024</div><div style="border-bottom: 1px solid black; margin-top: 5px;">(Date)</div></div><div style="width: 60%; text-align: right;"><div style="border-bottom: 1px solid black; margin-top: 5px;">129 Esmeralda Avenue</div><div style="text-align: center;">Volusia<br/>(Street Address)</div></div></div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                |                                                                                                                       |
| <p>I (We) the undersigned am the sole property owner(s) of _____, Volusia County, Florida.</p> <p>By this letter, I (We) am requesting annexation into the City of Daytona Beach Shores, Florida. It is my (our) understanding that the fee for legal advertising has been waived by the City and that I (we) will not incur any costs for annexation.</p> <div style="text-align: right; color: blue; font-size: 1.2em;">5335-01-05-0360</div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                |                                                                                                                       |
| <div style="display: flex; justify-content: space-between;"><div style="width: 30%;"><p><del>Signed,</del></p><div style="text-align: center; color: blue; font-size: 1.5em;">[Signature]</div><div style="border-bottom: 1px solid black; margin-top: 5px;">Signature</div></div><div style="width: 40%;"><p style="color: blue; font-size: 1.2em;">Anne Bressan Harrington</p><div style="border-bottom: 1px solid black; margin-top: 5px;">Name (Printed or typed)</div></div><div style="width: 30%; text-align: right;"><p style="color: blue; font-size: 1.2em;">719-351-8378</p><div style="border-bottom: 1px solid black; margin-top: 5px;">Telephone</div></div></div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div style="width: 30%;"><p>Signature</p><div style="border-bottom: 1px solid black; margin-top: 5px;">Name (Printed or typed)</div></div><div style="width: 30%;"><p>Signature</p><div style="border-bottom: 1px solid black; margin-top: 5px;">Name (Printed or typed)</div></div><div style="width: 30%; text-align: right;"><p>Telephone</p><div style="border-bottom: 1px solid black; margin-top: 5px;">Telephone</div></div></div> |                                                                                                                                                                                                                                                |                                                                                                                       |
| <p>SWORN to and subscribed before me this <u>17</u> day of <u>Jan</u>, 20<u>24</u> by <u>Anne Harrington</u>, who is personally known to me _____ or produced Identification <u>y</u>. Type of Identification provided <u>FL Driver License</u>.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div style="width: 40%;"><p style="color: blue; font-size: 1.5em;">[Signature]</p><p>Notary Public – State of Florida</p><p>My Commission Expires:</p></div><div style="width: 60%; text-align: right;"></div></div> <div style="margin-top: 20px;"><p><b>Please return this form to:</b> Annexation Committee<br/>c/o Planning Department<br/>City of Daytona Beach Shores<br/>2990 S. Atlantic Avenue<br/>Daytona Beach Shores, FL 32118</p></div>                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                |                                                                                                                       |

**EXHIBIT 2**  
**B: Property Appraiser Website Owner Information**



VOLUSIA COUNTY PROPERTY APPRAISER

**LARRY BARTLETT, JD, CFA**

WE VALUE VOLUSIA

Agriculture

Maps

Tangible Pr

Search ▾

Downloads ▾

Home / Parcel Summary for 3462718

Summary

Tax Estimate

Permits

Map

Pictometry

Print

|                                    |                                                                                                                                        |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <b>Alternate Key:</b>              | 3462718                                                                                                                                |
| <b>Parcel ID:</b>                  | 533501050360                                                                                                                           |
| <b>Township-Range-Section:</b>     | 15 - 33 - 35                                                                                                                           |
| <b>Subdivision-Block-Lot:</b>      | 01 - 05 - 0360                                                                                                                         |
| <b>Physical Address:</b>           | 129 ESMERALDA AVE, DAYTONA BEACH 32118                                                                                                 |
| <b>Owner(s):</b>                   | HARRINGTON ANNE BRESSAN TR - TR - Trust - 100%<br>ANNE BRESSAN HARRINGTON TRUST 05-27-2016 - TR - Trust - 100%                         |
| <b>Mailing Address On File:</b>    | 129 ESMERALDA AVE<br>DAYTONA BEACH FL 32118<br><a href="#">Update Mailing Address</a>                                                  |
| <b>Building Count:</b>             | 1                                                                                                                                      |
| <b>Neighborhood:</b>               | 3107 - ORITA SUB<br><a href="#">Neighborhood Sales</a>                                                                                 |
| <b>Subdivision Name:</b>           |                                                                                                                                        |
| <b>Property Use:</b>               | 0100 - SINGLE FAMILY                                                                                                                   |
| <b>Tax District:</b>               | 200-UNINCORPORATED - NORTHEAST                                                                                                         |
| <b>2023 Final Millage Rate:</b>    | 17.8598                                                                                                                                |
| <b>Homestead Property:</b>         | No - <a href="#">Apply for Homestead Online</a>                                                                                        |
| <b>Agriculture Classification:</b> | No - <a href="#">Additional Information</a>                                                                                            |
| <b>Short Description:</b>          | E 14 1/3 FT OF LOT 35 & LOTS 36 & 37 BLK E RIOMAR BEACHES MB<br>6 PG 95 PER OR 5096 PG 1358 PER OR 7916 PG 0819 PER OR 8392<br>PG 2794 |

### EXHIBIT 3

**A:** Aerial View of Annexing Property (129 Esmeralda Ave.)



Source: Volusia County Property Appraiser Website, 2021

**B:** Street View of Annexing Property (129 Esmeralda Avenue)



Source: Daytona Beach Shores, 2024

**EXHIBT 4  
PRE-ANNEXATION FORM**

Name of Property Owner: Anne Bressan Harrington Trust

Property Address/Tax Parcel ID: 129 Esmeralda Avenue / 5335-01-05-0360

Lot Size: 64' x 125' = 8,000sf (0.18 acres)

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

How is property contiguous? East X West        North X South       

Property Appraiser Just/Market Value: \$280,149 (2023 Final)

Homesteaded Property: Yes        No X

Special Flood Hazard Area? Yes        No X

Improved Lot X Unimproved Lot (Vacant)       

Existing Use: Single Family Residential

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

Existing County Zoning: R-9 Urban Single-Family Residential District

Existing County Land Use: Urban Low Intensity

Condition of Property: Poor        Average X Good       

Water: Port Orange X Daytona Beach       

Sanitary: Sewer X Septic Tank       

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

Metes and Bounds Survey conducted? Yes X No       

Property Subject To Code Enforcement Action? Yes        No X

Prepared by: Stewart Cruz, Community Services Director Date: March 29, 2024

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

| Section    | Annexation Criteria                                                                     | Criteria Met | Comments                                                                                                                                                                                                                                   |
|------------|-----------------------------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 171.044(1) | Property must be contiguous to the City.                                                | Yes          | Per Sec. 171.031(11), subject property is contiguous to the City to the North and East.                                                                                                                                                    |
| 171.044(1) | Property must be reasonably compact.                                                    | Yes          | Per Sec. 171.031(12), subject property is reasonably compact and will not create new enclaves, pockets or finger areas in serpentine patterns. In addition, the annexation will aid in reducing the larger county enclave in the vicinity. |
| 171.044(2) | Petition bears the signatures of all owners of property.                                | Yes          | Yes.                                                                                                                                                                                                                                       |
| 171.044(2) | Meet publication requirements.                                                          | Yes          | Evidence filed with the Office of the City Clerk.                                                                                                                                                                                          |
| 171.044(3) | Ordinance shall be filed per statute.                                                   | Pending      | Ordinance filing will occur per statutory deadline subsequent to the Ordinance's adoption.                                                                                                                                                 |
| 171.044(3) | Ordinance shall include a map and legal description by metes and bounds.                | Yes          | See Ordinance 2024-09                                                                                                                                                                                                                      |
| 171.044(4) | Annexation method shall be supplemental to any other procedure provided by general law. | N/A          |                                                                                                                                                                                                                                            |
| 171.044(5) | Annexation shall not create enclaves.                                                   | Yes          | Per Sec. 171.031(13), subject property does not create an enclave. In fact the annexation will reduce the larger County enclave that currently exists in this area.                                                                        |
| 171.044(6) | Provision of notice to County Commissioners per statute.                                | Yes          | Notice provided via certified mail per statutory requirement.                                                                                                                                                                              |



## **CITY COMMISSION AGENDA MEMORANDUM APRIL 23, 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 2024-10: Voluntary Annexation, 110 Van Avenue

### **SYNOPSIS:**

Three RE Holdings, LLC, property owner of the unincorporated Volusia County single-family residential property located at 110 Van Avenue (Exhibit 1), has petitioned the City of Daytona Beach Shores for voluntary annexation into the City's corporate limits (Exhibit 2) pursuant to Section 171.044, Florida Statutes. The owner purchased the property in May 2023. If adopted, Ordinance 2024-10 will annex the subject property and adjacent right-of-way (to centerline) into the City limits of Daytona Beach Shores.

### **FISCAL IMPACT STATEMENT:**

No fiscal impact for fiscal year 2023-24. If adopted this property would be added to the city's tax roll for fiscal year 2025-26.

### **BACKGROUND:**

The subject property is approximately 0.27 of an acre with dimensions of 78' x 150'. The property contains a single-family residential structure (Exhibit 3) with a floor area of 2,111 square feet. Pursuant to Section 171.062, Florida Statutes, the owners have also submitted applications to amend the future land use and zoning classifications of the property in question to those of the City. The future land use amendment and rezoning ordinances will be adopted subsequent to the formal annexation of the subject property.

Exhibit 4 attached provides a general description of the subject property, while Exhibit 5 demonstrates compliance with the voluntary annexation requirements prescribed in Section 171.044, Florida Statutes.

### **LEGAL REVIEW:**

### **RECOMMENDATION:**

Staff recommends approval of Ordinance 2024-10 as presented.

**SUGGESTED MOTION:**

A City Commissioner may motion as follows:

"I move to approve Ordinance 2024-10 as presented."

- ATTACHMENT:**
1. Ord 2024-10-Voluntary Annexation-110 Van Ave
  2. Ord 2024-10-Staff Report Exhibits

**ORDINANCE NO. 2024-10**

**AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RELATING TO VOLUNTARY ANNEXATION OF REAL PROPERTY LOCATED AT 110 VAN AVENUE (SHORT PARCEL IDENTIFICATION NUMBER 5334-02-05-0020) TOGETHER WITH ASSOCIATED RIGHT-OF-WAYS IN ACCORDANCE WITH SECTION 171.044, *FLORIDA STATUTES*; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; REDEFINING THE BOUNDARIES OF THE CITY; PROVIDING FOR LEGAL EFFECT AND IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, PROVIDING FOR NON-CODIFICATION AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, Three RE Holdings, LLC, property owner, applied for annexation of property into the City of Daytona Beach Shores and is hereby determined to be the fee simple title owner of the real property described below; and

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

**WHEREAS**, the subject property is currently addressed 110 Van Avenue; and

**WHEREAS**, the subject property currently has a Short Tax Parcel Identification Number 5334-02-05-0020; and

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

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

**WHEREAS**, the City Commission of the City of Daytona Beach Shores, Florida

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

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

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

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

; and

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

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

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

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

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

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

DESCRIPTION:

THE WEST 77.54 FEET OF LOTS 1, 2 AND 3, BLOCK 5, LYING EASTERLY OF ESPERANZA STREET AND SOUTHERLY OF VAN AVENUE, PLAT OF ORITA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 1, PAGE 115, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH THE EASTERLY 1/2 OF ESPERANZA STREET LYING NORTHERLY OF THE SOUTH LINE OF LOT 3 AND LYING SOUTHERLY OF THE CENTERLINE OF VAN AVENUE, AND THE SOUTHERLY 1/2 OF VAN AVENUE LYING EASTERLY OF THE CENTERLINE OF ESPERANZA STREET AND WESTERLY OF THE EASTERLY LINE OF THE WESTERLY 77.54 FEET OF LOTS 1, 2 AND 3 SAID BLOCK 5, PLAT OF ORITA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE SOUTH LINE OF SAID LOT 3 AND THE CENTERLINE OF ESPERANZA STREET, A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE NORTHERLY ALONG SAID CENTERLINE TO THE CENTERLINE OF VAN AVENUE A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE EASTERLY ALONG SAID CENTERLINE TO THE EASTERLY LINE OF THE WESTERLY 77.54 FEET OF SAID LOT 1; THENCE SOUTHERLY ALONG SAID EASTERLY LINE AND ALONG EASTERLY LINE OF THE WESTERLY 77.54 FEET OF LOTS 2 AND 3 TO THE SOUTHERLY LINE OF LOT 3; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 3 TO THE POINT OF BEGINNING. CONTAINING 0.412 ACRES, MORE OR LESS.

**SECTION THREE: CHANGE IN CITY BOUNDARIES/LEGAL EFFECT OF ANNEXATION.** The boundary lines of the City Limits of the City of Daytona Beach Shores are hereby redefined and, upon the effective date of this Ordinance shall also encompass the annexed property as described herein and depicted in Exhibit “A”. Upon

this Ordinance becoming effective, the property owner of the annexed property shall be entitled to all the rights and privileges and immunities as are from time-to-time granted to property owners of the City as further provided in Chapter 171, *Florida Statutes*, and shall further be subject to the responsibilities of ownership as may from time-to-time be determined by the governing authority of the City and the provisions of said Chapter 171, *Florida Statutes*.

**SECTION FOUR: ADMINISTRATIVE IMPLEMENTING ACTIONS.**

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

(b). The City Manager, or designees within City management staff, shall ensure that the property annexed by this Ordinance is incorporated into the City of Daytona Beach Shores *Comprehensive Plan* and the *Official Zoning Map* of the City of Daytona Beach Shores in an expeditious manner and, in accordance with, and pursuant to, the provisions of Under the authority of Section 166.031(3), *Florida Statutes*, the City Manager, or designees, shall amend the boundaries of the City to include the property annexed in this Ordinance and all previously annexed properties in all maps and geographical data relating to the City Limits said properties to include, but not be limited to, annexed rights-of-way and natural features.

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

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

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

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

**CITY OF DAYTONA BEACH SHORES, FLORIDA**

\_\_\_\_\_  
**NANCY MILLER, MAYOR**

\_\_\_\_\_  
**KURT SWARTZLANDER, CITY MANAGER**   **CHERI SCHWAB, CITY CLERK**

**Approved as to form and legality:**

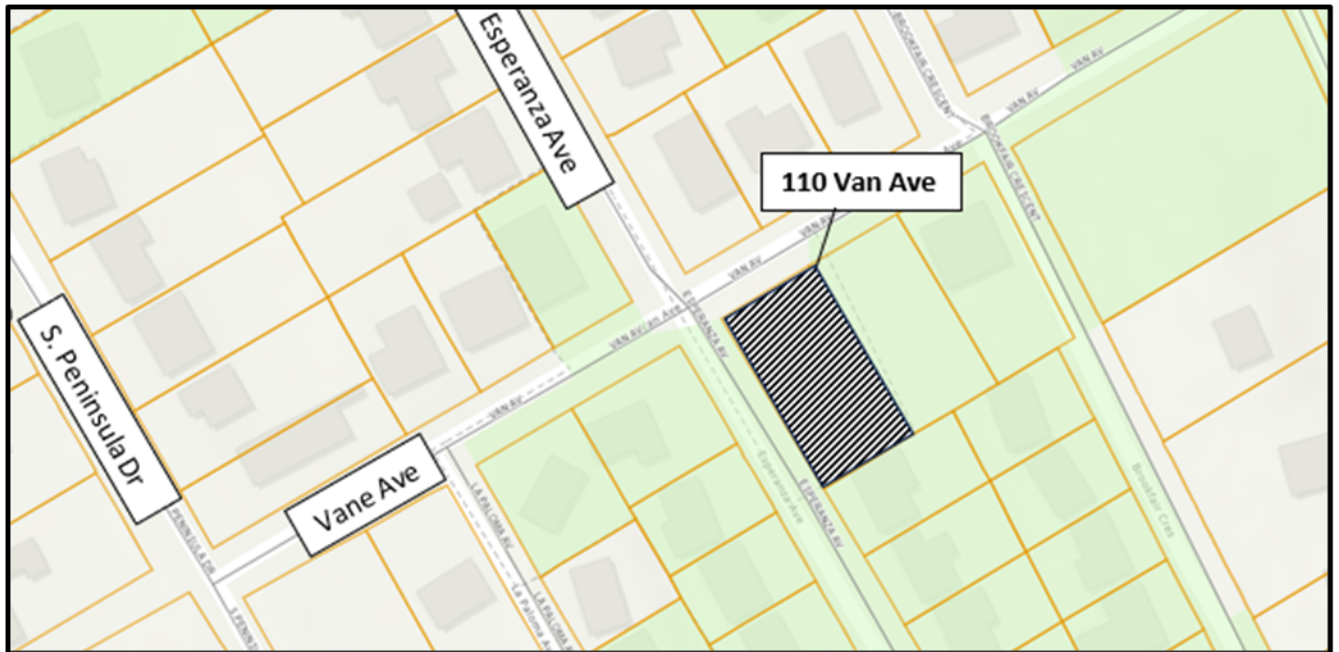
\_\_\_\_\_  
**GRETCHEN R.H. “BECKY” VOSE, CITY ATTORNEY**

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

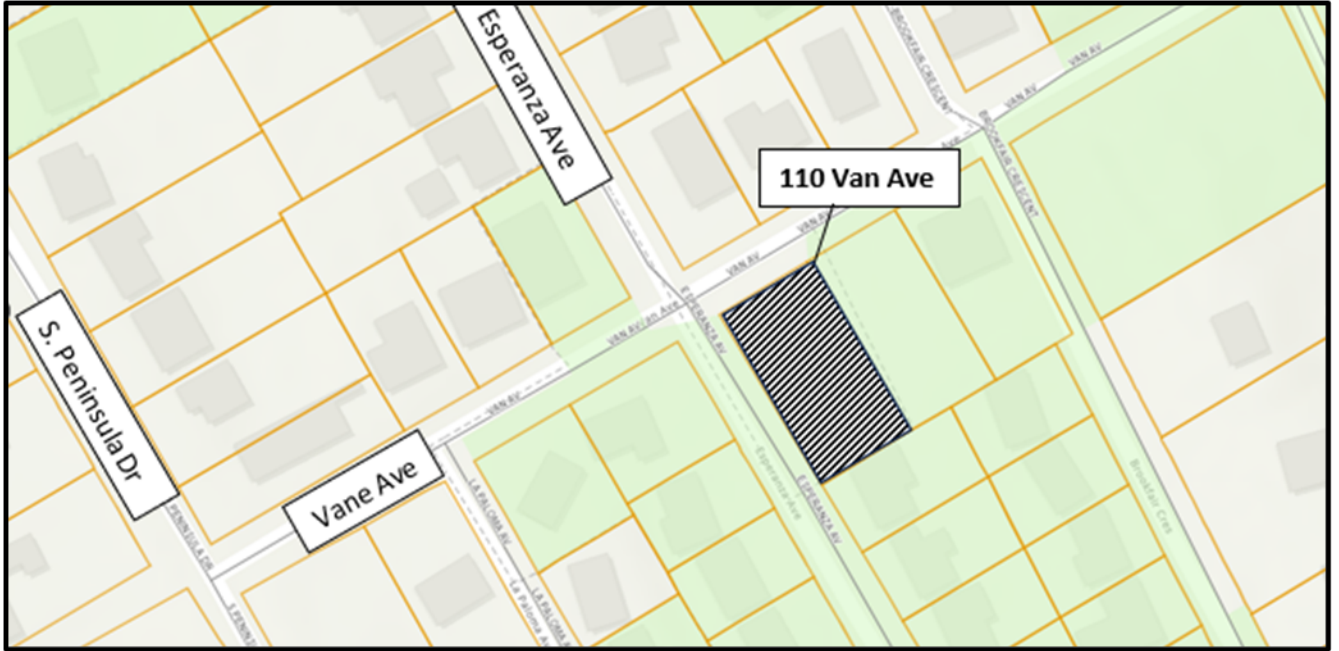
## EXHIBIT A

### (1) Location Map of Annexing Property (110 Van Avenue)



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

**EXHIBIT 1: Location Map of Annexing Property (110 Van Avenue)**



**Source:** Volusia County Property Appraiser Website, 2024

**EXHIBIT 2**  
**A: Annexation Application**



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

**REQUEST FOR ANNEXATION**

January 25, 2024  
(Date)

I (We) the undersigned am the sole property owner(s) of 110 Van Ave., Volusia  
County, Florida. (Street Address)

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

Signed,

Signature

Tom Cooper

Name (Printed or typed)

386-316-5965

Telephone

Signature

Alice Cooper

Name (Printed or typed)

386 316 5966

Telephone

Signature

Jessica Lovell

Name (Printed or typed)

386 882 1229

Telephone

SWORN to and subscribed before me this 25 day of January 2024 by  
Tom Cooper, Alice Cooper, Jessica Lovell, who is personally known to me or produced  
Identification \_\_\_\_\_. Type of Identification provided \_\_\_\_\_.

Cindy Paquet

Notary Public - State of Florida

My Commission Expires: 8/21/27



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

## B: Property Appraiser Website Owner Information

3 of 6

### EXHIBIT 3

**A:** Aerial View of Annexing Property (110 Van Ave.)



**Source:** Volusia County Property Appraiser Website, 2021

**B:** Street View of Annexing Property (110 Van Avenue)



**Source:** Daytona Beach Shores, 2024

**EXHIBT 4  
PRE-ANNEXATION FORM**

Name of Property Owner: Three RE Holdings, LLC

Property Address/Tax Parcel ID: 110 Van Avenue / 5334-02-05-0020

Lot Size: 78' x 150' = 11,700sf (0.27 acres)

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

How is property contiguous? East X West X North     South X

Property Appraiser Just/Market Value: \$381,043 (2023 Final)

Homesteaded Property: Yes        No X

Special Flood Hazard Area? Yes        No X

Improved Lot X Unimproved Lot (Vacant)       

Existing Use: Single Family Residential

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

Existing County Zoning: R-9 Urban Single-Family Residential District

Existing County Land Use: Urban Low Intensity

Visual Condition of Property: Poor        Average X Excellent       

Water: Port Orange X Daytona Beach       

Sanitary: Sewer X Septic Tank       

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

Metes and Bounds Survey conducted? Yes X No       

Property Subject To Code Enforcement Action? Yes     No X

Prepared by: Stewart Cruz, Community Services Director Date: March 29, 2024

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

| Section    | Annexation Criteria                                                                     | Criteria Met | Comments                                                                                                                                                                                                                                   |
|------------|-----------------------------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 171.044(1) | Property must be contiguous to the City.                                                | Yes          | Per Sec. 171.031(11), subject property is contiguous to the City to the East, West & South.                                                                                                                                                |
| 171.044(1) | Property must be reasonably compact.                                                    | Yes          | Per Sec. 171.031(12), subject property is reasonably compact and will not create new enclaves, pockets or finger areas in serpentine patterns. In addition, the annexation will aid in reducing the larger county enclave in the vicinity. |
| 171.044(2) | Petition bears the signatures of all owners of property.                                | Yes          | Yes.                                                                                                                                                                                                                                       |
| 171.044(2) | Meet publication requirements.                                                          | Yes          | Evidence filed with the Office of the City Clerk.                                                                                                                                                                                          |
| 171.044(3) | Ordinance shall be filed per statute.                                                   | Pending      | Ordinance filing will occur per statutory deadline subsequent to the Ordinance's adoption.                                                                                                                                                 |
| 171.044(3) | Ordinance shall include a map and legal description by metes and bounds.                | Yes          | See Ordinance 2024-10                                                                                                                                                                                                                      |
| 171.044(4) | Annexation method shall be supplemental to any other procedure provided by general law. | N/A          |                                                                                                                                                                                                                                            |
| 171.044(5) | Annexation shall not create enclaves.                                                   | Yes          | Per Sec. 171.031(13), subject property does not create an enclave. In fact the annexation will reduce the larger County enclave that currently exists in this area.                                                                        |
| 171.044(6) | Provision of notice to County Commissioners per statute.                                | Yes          | Notice provided via certified mail per statutory requirement.                                                                                                                                                                              |



## **CITY COMMISSION AGENDA MEMORANDUM APRIL 23, 2024 AGENDA**

**TO:** Honorable Mayor and Members of the City Commission

**FROM:** Stewart Cruz, Community Services Director

**PREPARED BY:** Stewart Cruz, Community Services Director

**SUBJECT:** Appointment to the Volusia County Interlocal Agreement Oversight Committee for Public School Facility Planning

### **SYNOPSIS:**

The Volusia County Interlocal Agreement for Public School Facility Planning (attached), which the City is party to, requires the city to appoint a citizen to serve on the Oversight Committee For Public School Facility Planning. The purpose of the oversight committee is to monitor the implementation of the interlocal agreement, including monitoring and evaluation of the school concurrency system, and providing for public comment on the implementation of the interlocal agreement at least once each year. Per the agreement, the committee members shall report back to their respective local government and the public on the effectiveness with which the interlocal agreement is being implemented. The City of Daytona Beach Shores is in need of a representative on the subject committee.

### **FISCAL IMPACT STATEMENT:**

### **BACKGROUND:**

The Volusia County Interlocal Agreement for Public School Facility Planning was originally adopted in 2003 and amended in 2007 pursuant to Sec. 163.3180(13), Florida Statutes (now rescinded) and Sec. 206 of the Volusia County Charter, which requires that any county or municipal comprehensive plan amendment or rezoning which increases residential density may be effective only if adequate public schools can be timely planned and constructed to serve the projected needs in student population. This planning concept is also referred to as "concurrency." As such, the goal of the interlocal agreement is to maintain and enhance a cooperative and productive relationship regarding the exchange of information relating to planning efforts and public facilities within Volusia County among the Volusia County School District, Volusia County and cities whilst ensuring sound public school facility planning and concurrency.

### **LEGAL REVIEW:**

**RECOMMENDATION:**

As determined by the City Commission.

**SUGGESTED MOTION:**

"I move to appoint [insert name of nominee] to serve as the Daytona Beach Shores representative on the Volusia County Interlocal Agreement Oversight Committee for Public School Facility Planning."

**ATTACHMENT:**     1.     ILA

1                   **FIRST AMENDMENT TO INTERLOCAL**  
2                   **AGREEMENT FOR PUBLIC SCHOOL FACILITY**  
3                   **PLANNING**

4           **THIS AGREEMENT** made this 1st day of July 2007, by and between  
5 the County of Volusia, a political subdivision of the State of Florida, hereinafter referred  
6 to as the "COUNTY", the City of Daytona Beach, City of Daytona Beach Shores, City of  
7 DeBary, City of DeLand, City of Deltona, City of Edgewater, City of Holly Hill, City of  
8 Lake Helen, City of New Smyrna Beach, City of Oak Hill, City of Orange City, City of  
9 Ormond Beach, Town of Pierson, City of Port Orange, City of South Daytona, and Town  
10 of Ponce Inlet political subdivisions of the State of Florida hereinafter referred to as the  
11 "CITIES" or "MUNICIPALITIES", and the Volusia County School District, a public  
12 agency of the State of Florida, hereinafter referred to as the "SCHOOL DISTRICT" or  
13 "SCHOOL BOARD," (sometimes collectively referred to as the PARTIES), and restates  
14 and amends that certain Interlocal Agreement for Public School Facility Planning dated  
15 March 19, 2003.

16           **WHEREAS**, the COUNTY, CITIES and SCHOOL BOARD agree that strong  
17 and healthy schools are critical to community success, are cornerstones of effective  
18 neighborhood design, and a focal point for development of community plans and  
19 improvements; and

20           **WHEREAS**, the COUNTY, CITIES and SCHOOL BOARD agree that strong  
21 and healthy communities are critical to the growth of healthy families and educational  
22 success, and that vibrant cities and communities often require appropriate development to  
23 maintain healthy economies and services; and

24           **WHEREAS**, the COUNTY, CITIES and SCHOOL BOARD agree that strong  
25 communities and schools are inseparable in building success in each and support a  
26 process to ensure concurrent and appropriate development in the communities and in the  
27 schools; and

28           **WHEREAS**, the 2005 Florida Legislature adopted Chapter 2005-98, Laws of  
29 Florida (sometimes referred to herein as "Senate Bill 360") which, in relevant part,  
30 requires that all school interlocal agreements be updated to reflect a new statutory  
31 mandate to implement school concurrency; and;

32           **WHEREAS**, Sec. 163.31777, Fl. Stat. requires the County and Municipalities  
33 within the geographic area of a SCHOOL DISTRICT to enter into an interlocal  
34 agreement with the district school board to jointly establish specific ways in which plans  
35 and processes of the district school board and the LOCAL GOVERNMENTS are to be  
36 coordinated including provisions in Sec. 163.3180(13)(g) which pertain to public school  
37 concurrency, and Sec. 1013.33(2) pertaining to public school facilities planning; and

38           **WHEREAS**, the COUNTY, CITIES and the SCHOOL BOARD have established  
39 and maintained a cooperative and productive relationship with regard to the exchange of

5/22/07

1 information on matters of mutual interest including, but not limited to, the coordination  
2 of planning efforts to ensure that support services are available for public educational  
3 facilities and recognizing their mutual interest and respective obligations and  
4 responsibilities for the education, nurture and general well-being of the children within  
5 their community; and

6 **WHEREAS**, the COUNTY, CITIES and the SCHOOL BOARD have shared  
7 such information for numerous years and continue to share such information so that each  
8 entity can assist the other in reaching its goals and objectives; and

9 **WHEREAS**, the COUNTY, CITIES and SCHOOL BOARD agree that schools  
10 are cornerstones of effective neighborhood design and a focal point for development of  
11 community plans and improvements including, but not limited to, parks, recreation,  
12 libraries, children's services and other related uses; and

13 **WHEREAS**, the COUNTY, CITIES and SCHOOL BOARD agree that the  
14 location of schools as part of stable and well designed neighborhoods enhance  
15 educational programs, encourage community support and assist in providing safe, secure  
16 and effective educational environments for the children that utilize these facilities; and

17 **WHEREAS**, the COUNTY, CITIES, and SCHOOL BOARD recognize the  
18 benefits that will flow to the citizens and students of their communities by more closely  
19 coordinating their comprehensive land use and school facilities planning programs:  
20 namely (1) better coordination of new schools in time and place with land development,  
21 (2) greater efficiency for the SCHOOL BOARD and LOCAL GOVERNMENTS by  
22 placing schools to take advantage of existing and planned roads, water, sewer, and parks,  
23 (3) improved student access and safety by coordinating the construction of new and  
24 expanded schools with the road and sidewalk construction programs of the LOCAL  
25 GOVERNMENTS, and (4) reduction of pressures contributing to urban sprawl and  
26 support of existing neighborhoods by appropriately locating new schools and expanding  
27 and renovating existing schools; and

28 **WHEREAS**, through this updated AGREEMENT the COUNTY, CITIES and the  
29 SCHOOL BOARD recognize the previous Interlocal Agreement approved March 19,  
30 2003 and wish to maintain and enhance their cooperative and productive relationship  
31 regarding the exchange of information relating to planning efforts and public facilities  
32 and in accordance with statutory requirements.

33 **WHEREAS**, §163.3180(13), Florida Statutes requires the COUNTY, CITIES and  
34 SCHOOL BOARD to implement a school concurrency program; and

35 **WHEREAS**, Sec. 206 of the Volusia County Charter requires that any county or  
36 municipal comprehensive plan amendment or rezonings which increases residential  
37 density may be effective only if adequate public schools can be timely planned and  
38 constructed to serve the projected needs in student population; and

1           **WHEREAS**, the COUNTY, CITIES and the SCHOOL BOARD have met and  
2 coordinated with respect to the statutory requirements for a countywide, uniform school  
3 concurrency program; and

4           **WHEREAS**, the SCHOOL BOARD is obligated to implement a financially  
5 feasible, Five-Year Facilities Work Program based on the level of service standards  
6 provided for in this AGREEMENT; and

7           **WHEREAS**, the COUNTY and CITIES are required to amend their  
8 comprehensive plans and Land Development Codes, as appropriate and necessary, in  
9 order to effectuate the obligations under this AGREEMENT and state statute; and

10           **WHEREAS**, the SCHOOL BOARD has a constitutional and statutory obligation  
11 to provide a uniform system of free public schools on a countywide basis; and

12           **WHEREAS**, the COUNTY and the CITIES have the sole authority to undertake  
13 land use planning and to implement necessary land development regulations within its  
14 jurisdiction and nothing herein shall abrogate CITIES' municipal home rule or the  
15 COUNTY's authority under the Volusia County Charter, or the authority of the Volusia  
16 Growth Management Commission; and

17           **WHEREAS**, this AGREEMENT neither is intended to nor does it delegate or  
18 transfer any land use planning or regulatory authority to the SCHOOL BOARD.

19           **NOW THEREFORE** THE SCHOOL BOARD OF VOLUSIA COUNTY, THE  
20 COUNTY OF VOLUSIA AND THE CITY OF DAYTONA BEACH, CITY OF  
21 DAYTONA BEACH SHORES, CITY OF DEBARY, CITY OF DELAND, CITY OF  
22 DELTONA, CITY OF EDGEWATER, CITY OF HOLLY HILL, CITY OF LAKE  
23 HELEN, CITY OF NEW SMYRNA BEACH, CITY OF OAK HILL, CITY OF  
24 ORANGE CITY, CITY OF ORMOND BEACH, TOWN OF PIERSON, TOWN OF  
25 PONCE INLET, CITY OF PORT ORANGE AND CITY OF SOUTH DAYTONA enter  
26 into this AGREEMENT for the purpose of accomplishing the goals and objectives stated  
27 in Florida Statute §163.3177 and §1013.33 and agree as follows:

28           **SECTION 1. COORDINATED PLANNING AND SHARING OF INFORMATION**

29           The PARTIES recognize that sound planning for both educational facilities and  
30 student growth emanating from existing, redevelopment and new development of  
31 residential property requires adequate and accurate data and information and that  
32 effective coordination of these two planning functions requires that all of the PARTIES  
33 have access to and utilize the same data and information. Accordingly, the COUNTY,  
34 the MUNICIPALITIES, and the SCHOOL BOARD agree to share and coordinate  
35 information relating to existing and planned public school facilities, proposals for  
36 development and re-development, infrastructure required to support public school  
37 facilities, and population projections, including student population projections, which are  
38 utilized and relied on by the PARTIES for planning purposes.

1           **A.       Population and Student Projections**

2           In fulfillment of their respective planning duties, the COUNTY,  
3 MUNICIPALITIES, and SCHOOL DISTRICT agree to coordinate their capital plans  
4 based upon the established methodology of projections of the amount, type, and  
5 distribution of population growth and student enrollment. The SCHOOL DISTRICT  
6 shall make annual projections of student population based upon the 20th day student  
7 membership count and the Florida Department of Education (FDOE) Capital Outlay Full  
8 Time Equivalent (COFTE) for the five (5) year period and population projections derived  
9 from the best available data as the basis for student population projections beyond the  
10 five (5) year period. The COUNTY and MUNICIPALITIES shall make population  
11 projections based upon US Census data, University of Florida Bureau of Economic and  
12 Business Research data, and other available data.

13           The SCHOOL BOARD, the COUNTY and the MUNICIPALITIES commit to  
14 continued efforts to improve this methodology and enhance coordination with the plans  
15 of the SCHOOL DISTRICT and LOCAL GOVERNMENTS. Population and student  
16 enrollment projections shall be revised annually to ensure that new residential  
17 development and redevelopment information provided by the MUNICIPALITIES and the  
18 COUNTY is reflected in the updated projections.

19           The establishment and agreement to the coordination and methodology of the  
20 updated projections, making modifications as necessary, shall be adopted at the semi-  
21 annual joint meeting as specified in Section 7 of this AGREEMENT.

22           **B.       LOCAL GOVERNMENT Data Collection**

23           On April 1 of each year, LOCAL GOVERNMENTS shall provide the SCHOOL  
24 DISTRICT with the information regarding the Certificates of Occupancy, residential  
25 development approvals, and building permits issued for new residential units for the  
26 preceding calendar year.

27           **C.       Annual SCHOOL DISTRICT Report**

28           The SCHOOL DISTRICT shall issue data annually concerning school capacity,  
29 including the enrollment of each school based on the 20th day student membership count,  
30 the permanent student capacity of each school and the percentage of capacity over or  
31 under permanent capacity for the current year and each year of the five year planning  
32 period based upon five year student projections by school, and capacity based upon  
33 adopted level of service for each school. The SCHOOL DISTRICT shall update the data  
34 no later than thirty (30) working days after the annual adoption of the SCHOOL  
35 DISTRICT's Five-Year Facilities Work Program and the 20<sup>th</sup> day student enrollment  
36 membership count.

37           **D.       Student Generation Rates**

38           The student generation rates will be used for the term of this AGREEMENT to  
39 determine the average number of students based on the number and type of residential

1 units from the proposed development as set forth in the school impact fee study dated  
2 February 2005, and any subsequent school impact fee study approved by the SCHOOL  
3 BOARD.

4 **SECTION 2. EDUCATIONAL AND ANCILLARY FACILITY SITE SELECTION**  
5 **REVIEW, SITE ACQUISITION PROCESS, SIGNIFICANT**  
6 **RENOVATIONS AND REMODELING, AND SCHOOL CLOSURE.**

7 The COUNTY, CITIES and SCHOOL DISTRICT agree that in order to  
8 coordinate the rights and responsibilities of the parties with respect to the site acquisition  
9 and development of future educational and ancillary facilities within the COUNTY, the  
10 following procedures will be observed:

11 A. The SCHOOL BOARD shall request assistance from the COUNTY and/or  
12 CITIES in its review of residential growth and overall development trends prior to  
13 initiating a site search for a new educational or ancillary facility.

14 B. During the SCHOOL BOARD's site selection process but prior to the  
15 execution of an option agreement or purchase contract, the SCHOOL BOARD shall  
16 present one or more sites to the County and Cities Land Planning Agency, Growth  
17 Management, or other appropriate department responsible for comprehensive planning,  
18 site design and concurrency management for their review and comment with respect to  
19 issues pertaining to the comprehensive plan, zoning, utility service, roadways and  
20 vehicular and pedestrian access, drainage, water supply, and stormwater management,  
21 environment, police and fire services, and level of service (LOS) standards. Further, the  
22 SCHOOL DISTRICT shall provide other LOCAL GOVERNMENTS within the school  
23 planning area of the proposed school with notice of the filing of the site information with  
24 the primarily Affected LOCAL GOVERNMENT. Other Affected LOCAL  
25 GOVERNMENTS may provide comments to SCHOOL BOARD within 30 days of  
26 receipt of the notice. Within 60 days of receiving the proposed site(s), the COUNTY  
27 and/or CITIES shall provide its written comments to the SCHOOL BOARD and the  
28 applicable government shall indicate its ability to provide local governmental services to  
29 the site(s) concurrent with the impact of the educational or ancillary facility construction.  
30 The comments of the COUNTY and/or CITIES shall be included in the presentation and  
31 recommendation of a site to the SCHOOL BOARD.

32 C. At least 60 days prior to acquiring or leasing property, the SCHOOL  
33 BOARD shall request a finding of consistency with the COUNTY and CITY  
34 comprehensive plan as appropriate. Within 45 days of receiving the request, the  
35 COUNTY or CITY shall provide the SCHOOL BOARD with a written statement of  
36 whether the proposed site is consistent with the COUNTY or CITY comprehensive plan,  
37 including appropriate circumstances and criteria under which the district school board  
38 may request an amendment to the comprehensive plan for school siting. This finding  
39 shall not be binding on the COUNTY or CITY as it relates to the facility site plan; it shall  
40 indicate whether the location and its intended use is consistent with the land use  
41 categories and policies of the COUNTY or CITY comprehensive plan.

1           **D.**       At such time that the SCHOOL BOARD proposes development or before,  
2 the SCHOOL BOARD may petition the CITY for annexation of the subject property  
3 provided that the property is contiguous to a City's corporate limits and complies with  
4 requirements pursuant to State Law and the proposed school development is consistent  
5 with the City's comprehensive plan and land development regulations. The city, in its  
6 sole discretion, may annex the property upon receipt of the annexation petition. This  
7 section is not intended to prohibit any City from annexing property by any other lawful  
8 means.

9           **E.**       The SCHOOL BOARD and Affected LOCAL GOVERNMENTS shall  
10 jointly determine the need for and timing of on-site and off-site improvements necessary  
11 to support each new school or the proposed significant renovation of an existing school,  
12 at the time of the preliminary consistency determination described at Section 3 of this  
13 agreement or during the review of a significant renovation or remodeling. If deemed  
14 necessary, the Parties may enter into a written agreement as to the timing, location, and  
15 the Party or Parties responsible for constructing, operating and maintaining the required  
16 improvements. Recognizing that it is cost effective and beneficial to land bank sites for  
17 future educational needs, the written agreement identifying on-site and off-site  
18 improvements is subject to ongoing review and change. During the site plan review as  
19 identified in section 2(b) the parties may identify additional on-site and off-site  
20 improvements and may amend the agreement, as they deem necessary.

21           **F.**       Significant renovations or remodeling to permanent buildings at existing  
22 schools shall be defined as major site redesign or changes in principal use from academic  
23 to ancillary use. Additionally, increases in permanent student capacity of more than ten  
24 percent over the FISH (Florida Inventory of School Houses) shall be considered a  
25 significant renovation. The SCHOOL DISTRICT shall provide the LOCAL  
26 GOVERNMENT in which the facility is located with a copy of the proposed renovation  
27 and the LOCAL GOVERNMENT shall have 30 days to provide comments on the  
28 proposed revisions. The SCHOOL DISTRICT shall consider incorporating the CITY or  
29 COUNTY's comments in its design to the extent feasible.

30           **G.**       Prior to closing schools and/or declaring school properties as surplus, the  
31 SCHOOL BOARD shall notify in writing the Affected LOCAL GOVERNMENTS.  
32 Before taking final action to close a school or declare school property as surplus, the  
33 SCHOOL BOARD shall give the Affected LOCAL GOVERNMENTS 30 days to  
34 comment on the proposed action. The SCHOOL BOARD agrees to make appropriate  
35 staff available to meet with the Affected LOCAL GOVERNMENTS to discuss the  
36 proposed action and alternative uses including sale to the LOCAL GOVERNMENT or  
37 another public entity or redevelopment.

38   **SECTION 3. EDUCATIONAL AND ANCILLARY FACILITY SITE PLAN**  
39       **REVIEW PROCESS**

40           **A.**       Prior to SCHOOL BOARD approval of the site plan, the SCHOOL  
41 DISTRICT shall discuss its site plan with the COUNTY or Growth Management  
42 Department, or the equivalent City department. After SCHOOL BOARD approval of the

1 site plan, the site plan shall be submitted to the COUNTY or CITY for review, comment,  
2 and determination of consistency with respect to the comprehensive plan and applicable  
3 land development code. The SCHOOL BOARD shall address the COUNTY's or CITY's  
4 comments in its final plans to the extent that any standards, regulations, and conditions  
5 imposed do not conflict with or the subject regulated is not specifically addressed by  
6 §1013 et seq, Fl. Stat., State Requirements for Education Facilities (SREF), and/or the  
7 Florida Building Code, unless mutually agreed, and provided such comments are  
8 submitted in writing within 45 days of receipt of the site plan. The SCHOOL BOARD  
9 shall submit revised plans. If a written determination as to consistency from the  
10 COUNTY or CITY has not been received within ninety days after initial submittal, the  
11 COUNTY or CITY shall have waived its right to comment on the SCHOOL BOARD's  
12 site plan.

13 The SCHOOL BOARD, COUNTY and/or CITIES may amend the written agreement  
14 identifying on-site and off-site improvements during the review of the site plan. The City  
15 shall commit the necessary potable water supply capacity to serve the school during its  
16 review of the school site plan.  
17

18 **B.** These provisions do not waive or terminate any rights granted to the  
19 SCHOOL BOARD by §1013 et seq, Fl. Stat., SREF, and/or the Florida Building Code  
20 unless specifically agreed to by the SCHOOL BOARD.

21 (1) The LOCAL GOVERNMENT may not deny the site  
22 plan based on the adequacy of the site plan as it relates solely to the needs of the  
23 educational facility. The LOCAL GOVERNMENT's review is limited to  
24 consistency with the comprehensive plan, environmental concerns, health, safety and  
25 welfare and effects on adjacent property. Standards and conditions may not be  
26 imposed which conflict with those established in Florida Statutes (SREF) or the  
27 State Uniform Building Code, unless mutually agreed by the SCHOOL BOARD and  
28 the LOCAL GOVERNMENT.

29 **SECTION 4. SCHOOL DISTRICT REVIEW OF COMPREHENSIVE PLANS**  
30 **AND DEVELOPMENT**

31 **A. Comprehensive Plan Review**

32 Each LOCAL GOVERNMENT agrees to submit to the SCHOOL DISTRICT  
33 every comprehensive plan amendment that it transmits to the Volusia Growth  
34 Management Commission.

35 **B. Future Land Use Element Plan Amendments**

36 In furtherance of Section 206 of the Volusia County Charter, each LOCAL  
37 GOVERNMENT shall require that every applicant seeking an amendment to Future Land  
38 Use map or text which affects existing or proposed residential land uses shall provide a  
39 copy of the proposed amendment to the SCHOOL DISTRICT at the time of submitting  
40 the application. Any proposed amendment to a land use element initiated by the LOCAL

1 GOVERNMENT shall be submitted to the SCHOOL BOARD at least forty-five (45)  
2 working days prior to the hearing before the Local Planning Agency (LPA). Any  
3 proposed small scale amendment which increases residential density shall be forwarded  
4 to the SCHOOL DISTRICT at least thirty (30) days prior to the hearing before the  
5 governing body. At least five (5) days prior to the Local Planning Agency hearing the  
6 LOCAL GOVERNMENT shall provide to the SCHOOL DISTRICT a copy of the  
7 amendment, all supporting materials including data and analysis, staff reports and staff  
8 recommendations. The LOCAL GOVERNMENT shall include the findings of the  
9 SCHOOL DISTRICT as set forth below in the supporting materials. The LOCAL  
10 GOVERNMENT shall also provide the notice of date, time, and location of the Local  
11 Planning Agency Hearing.

12 The SCHOOL DISTRICT shall review the amendment information submitted and  
13 shall evaluate the impact of the proposed amendment on the school capacity provided in  
14 the SCHOOL DISTRICT's Tentative District Educational Facilities Plan, the impact on  
15 permanent capacity of the affected school facilities as well as the impact on the adopted  
16 Level of Service standard for affected public schools, and the projected timing and  
17 delivery of public school facilities to serve any residential land use authorized by the  
18 proposed Comprehensive Plan Amendment.

19 Within fifteen (15) working days of receipt of the Future Land Use Map or text  
20 amendment the SCHOOL DISTRICT shall submit to the LOCAL GOVERNMENT and  
21 any other Affected LOCAL GOVERNMENTS a written report setting forth the findings  
22 and recommendations of the SCHOOL DISTRICT, and specifically setting forth the  
23 capacity, or lack thereof, of existing facilities or planned facilities as identified in the  
24 current SCHOOL DISTRICT Tentative District Educational Facilities Plan to serve  
25 additional students without exceeding permanent capacity. If the SCHOOL DISTRICT  
26 determines that school capacity is adequate to serve the proposed increase in residential  
27 density, the SCHOOL DISTRICT shall issue a "finding of adequate school capacity,"  
28 which shall constitute competent substantial evidence that adequate public school  
29 capacity is likely to be available at the time it is required to serve planned new  
30 development. In the event that the SCHOOL DISTRICT reports that there is not  
31 adequate school capacity to serve the proposed increase in residential density, then the  
32 LOCAL GOVERNMENT shall not approve the proposed Future Land Use Amendment  
33 until such time as the SCHOOL DISTRICT can issue a finding that adequate school  
34 capacity will exist and shall notify the Applicant accordingly. The LOCAL  
35 GOVERNMENT or the Applicant may request the SCHOOL DISTRICT report on what  
36 actions could be undertaken in order to provide adequate school capacity. Thereupon the  
37 SCHOOL BOARD, Affected LOCAL GOVERNMENT, and Applicant may enter into  
38 negotiations to evaluate options such that adequate school capacity can be timely planned  
39 and constructed to serve the anticipated students associated with the proposed land use at  
40 such time as the development is projected to occur, and recommend terms and conditions  
41 for a capacity enhancement agreement which have the effect of actually increasing  
42 capacity. Such agreements may provide from among the following options:

- 43 (1) Dedication of school site as approved by the SCHOOL  
44 BOARD; or

(2) Construction or Donation of buildings for use as a primary or alternative learning facility; provided that such facilities meet the Florida Building Code and the State Requirements for Educational Facilities; and/or

(3) Renovation of existing buildings for use as learning facilities which actually increase capacity; or

(4) Funding dedicated to, or construction of permanent student stations;

(5) For schools contained in the adopted SCHOOL DISTRICT's Five-Year Facilities Work Program including long term, upon agreement with the SCHOOL BOARD, the developer may build the school in advance of the time set forth in the SCHOOL DISTRICT's Five-Year Facilities Work Program; or

(6) Up front lump sum payment of school impact fees; or

(7) Payment of borrowing costs; or

(8) Payment of off-site infrastructure expenses associated with new school construction, including but not limited to roads, water, and/or sewer improvements; or

(9) Funding assistance with acquisition of school site.

(10) Phasing of school construction or delay of development construction in order to timely plan for availability of school capacity.

(11) Charter school provided that such school is approved by the SCHOOL BOARD and its construction meets the Florida Building Code and State Requirements for Educational Facilities and any enhanced hurricane protection area requirements as determined by Volusia County Emergency Management, and provides for a reverter clause to the SCHOOL BOARD in the event that the school should close.

(12) Any other measure approved by the SCHOOL BOARD which actually increases school capacity or accelerates a project on the Five Year Work Program.

Upon the successful negotiation of a capacity enhancement agreement, the SCHOOL BOARD may issue a Finding of Adequate School Capacity conditioned upon the execution of a capacity enhancement agreement with the SCHOOL BOARD, LOCAL GOVERNMENT, and Applicant as parties to the agreement which shall be enforceable by the SCHOOL BOARD and the LOCAL GOVERNMENT.

As part of a capacity enhancement agreement, the Applicant, SCHOOL BOARD, and LOCAL GOVERNMENT may agree on a means to convert the agreement to a

1 Mitigation Agreement under Section 11 (C) so as to allocate credit for donation of land,  
2 construction of facilities, and provide for reservation of capacity.

3 The LOCAL GOVERNMENT shall include the report and recommendations of  
4 the SCHOOL DISTRICT at its Local Planning Agency (LPA) and transmittal hearing,  
5 and if the COUNTY or MUNICIPALITY decides to transmit the proposed plan  
6 amendment to the Department of Community Affairs and Volusia Growth Management  
7 Commission, the COUNTY or MUNICIPALITY shall include the written report and  
8 recommendations of the SCHOOL DISTRICT in its transmittal package

9 In considering whether to adopt any Comprehensive Plan Amendment providing  
10 for an increase in allowable residential densities, the LOCAL GOVERNMENTS shall  
11 consider the factors set forth in the written report of the SCHOOL DISTRICT including  
12 such measures as set forth above in paragraph B 1-11 in a form acceptable to and  
13 enforceable by the SCHOOL BOARD and Affected LOCAL GOVERNMENTS. No  
14 comprehensive plan amendment which increases residential density shall be adopted if  
15 adequate public schools cannot be timely planned and constructed to serve the projected  
16 increase in the student population.

#### 17 **C. Residential Rezonings**

18 In furtherance of Section 206 of the Volusia County Charter, each LOCAL  
19 GOVERNMENT shall require that every applicant seeking a rezoning which increases  
20 density shall provide a copy of the proposed rezoning to the SCHOOL DISTRICT at the  
21 time of submitting the application. Each LOCAL GOVERNMENT which initiates an  
22 administrative rezoning which modifies and/or adds additional residential units shall  
23 provide a copy of the proposed rezoning at least forty-five (45) working days prior to the  
24 hearing before the local planning agency. Each LOCAL GOVERNMENT agrees to  
25 submit to the SCHOOL BOARD at least five (5) working days prior to their hearing on  
26 the subject rezoning the application information along with a copy of the development  
27 plan, supporting materials, staff reports and staff recommendations and the date, time and  
28 place of the local planning agency hearing. The LOCAL GOVERNMENT shall include  
29 the findings of the SCHOOL DISTRICT as set forth below in the supporting materials.

30 The SCHOOL DISTRICT shall review the rezoning information submitted and  
31 shall evaluate the impact of the proposed rezoning on the school capacity provided in the  
32 SCHOOL DISTRICT's Tentative District Educational Facilities Plan, the impact on  
33 permanent capacity of the affected school facilities as well as the impact on the adopted  
34 Level of Service standard for public schools, and the projected timing and delivery of  
35 public school facilities to serve any residential development authorized by the rezoning  
36 approval.

37 Within fifteen (15) working days of receipt of the rezoning application the  
38 SCHOOL DISTRICT shall submit to the LOCAL GOVERNMENT and any other  
39 Affected LOCAL GOVERNMENTS a written report setting forth the findings and  
40 recommendations of the SCHOOL DISTRICT, and specifically setting forth the capacity,  
41 or lack thereof, of existing facilities or planned facilities identified in the current

1 SCHOOL DISTRICT Tentative District Educational Facilities Plan to serve additional  
2 students without exceeding the permanent capacity and the adopted Level of Service.

3 If the SCHOOL DISTRICT determines that school capacity is adequate to serve  
4 the proposed increase in residential density, the SCHOOL DISTRICT shall issue a  
5 “finding of adequate school capacity,” which shall constitute competent substantial  
6 evidence that adequate public school capacity is likely to be available at the time it is  
7 required to serve planned new development. In the event that the SCHOOL DISTRICT  
8 reports that there is not adequate capacity to serve the proposed rezoning, then the  
9 LOCAL GOVERNMENT shall not approve the proposed rezoning until such time as the  
10 SCHOOL DISTRICT can issue a finding that adequate school capacity will exist and  
11 shall notify the Applicant accordingly. The LOCAL GOVERNMENT or the Applicant  
12 may request the SCHOOL DISTRICT report on what actions could be undertaken in  
13 order to provide adequate school capacity. Thereupon the SCHOOL BOARD, LOCAL  
14 GOVERNMENT, and Applicant may enter into negotiations to evaluate options such that  
15 capacity can be timely planned to serve the anticipated students associated with the  
16 proposed rezoning at such time as the development is projected to occur, and recommend  
17 terms and conditions for a capacity enhancement agreement as more particularly set forth  
18 in above in paragraph B 1-11 of this AGREEMENT. Upon the successful negotiation of  
19 a capacity enhancement agreement, the SCHOOL BOARD may issue a Finding of  
20 Adequate School Capacity conditioned upon the execution of a capacity enhancement  
21 agreement with the SCHOOL BOARD, LOCAL GOVERNMENT, and Applicant as  
22 parties to the agreement which shall be enforceable by the SCHOOL BOARD and  
23 Affected LOCAL GOVERNMENTS.

24 The LOCAL GOVERNMENT shall include the report and recommendations of  
25 the SCHOOL DISTRICT at its local Planning Board hearing, and if the LOCAL  
26 GOVERNMENT governing board decides to approve the proposed rezoning, the  
27 LOCAL GOVERNMENT shall include the written report and recommendations of the  
28 SCHOOL DISTRICT in its findings.

29 In considering whether to approve any rezoning providing for increased  
30 residential densities, the LOCAL GOVERNMENTS shall consider the factors set forth in  
31 the written report of the SCHOOL DISTRICT including such capacity enhancement  
32 measures as set forth in above in paragraph B 1-11 of this AGREEMENT in a form  
33 acceptable to and enforceable by the SCHOOL BOARD and Affected LOCAL  
34 GOVERNMENTS. LOCAL GOVERNMENTS acknowledge that adequate school  
35 capacity or lack thereof, is a basis for not increasing residential densities/units. In the  
36 event that a capacity enhancement agreement is required, and the LOCAL  
37 GOVERNMENT desires to approve the re-zoning, the action of the LOCAL  
38 GOVERNMENT to approve the re-zoning shall not be effective until a Capacity  
39 Enhancement Agreement is executed by the SCHOOL BOARD, LOCAL  
40 GOVERNMENT, and applicant, and enforceable by the SCHOOL BOARD. No  
41 rezoning which increases residential density shall be adopted if adequate public schools  
42 cannot be timely planned and constructed to serve the projected increase in the student  
43 population.

1           **D.       Residential Site Plans and Subdivisions**

2           Each LOCAL GOVERNMENT agrees to require an applicant for residential site  
3 plan or subdivision approval or Functional Equivalent to submit their plans to the  
4 SCHOOL DISTRICT at the same time as their filing with the LOCAL GOVERNMENT.  
5 Within five (5) days, the LOCAL GOVERNMENT agrees to inform the SCHOOL  
6 DISTRICT of the projected date where the site plan or subdivision or Functional  
7 Equivalent is scheduled to be considered by the COUNTY Development Review  
8 Committee or the appropriate body or officer for the respective CITIES. If the site plan or  
9 subdivision requires approval by the local planning agency or governing board, then the  
10 LOCAL GOVERNMENT shall inform the SCHOOL DISTRICT of the date, time, and  
11 place of the authorizing agency hearing and provide staff reports and supportive materials  
12 at least five (5) days prior to the hearing. The LOCAL GOVERNMENT shall include the  
13 SCHOOL DISTRICT's report as set forth below in its information to its authorizing  
14 agency.

15           If a development is precluded from commencing because there is inadequate  
16 capacity to mitigate the impacts of the development, the development may nevertheless  
17 commence if there are accelerated facilities in an approved capital improvement element  
18 scheduled for construction in year four or later of such plan which, when built, will  
19 mitigate the proposed development or if such accelerated facilities will be in the next  
20 annual update of the capital facilities element, the developer enters into a mitigation  
21 agreement with the SCHOOL DISTRICT to construct an accelerated facility within three  
22 years of an approved capital improvement plan and the cost of the school facility is equal  
23 or greater than the development's proportionate share.

24           The SCHOOL DISTRICT shall review the residential subdivision or site plan  
25 information submitted and shall evaluate the impact of the proposed request on the school  
26 capacity provided in the SCHOOL DISTRICT's Five-Year Facilities Work Program, the  
27 impact on the adopted Level of Service standard for public schools, and the projected  
28 timing and delivery of public school facilities to serve the proposed residential  
29 development.

30           Within fifteen (15) working days of receipt of the residential subdivision or site  
31 plan the SCHOOL DISTRICT shall submit to the LOCAL GOVERNMENT a written  
32 report setting forth the findings and recommendations of the SCHOOL DISTRICT, and  
33 specifically setting forth the capacity, or lack thereof, of existing facilities or planned  
34 facilities identified within the first three (3) years of the SCHOOL DISTRICT's Capital  
35 Improvement Plan to serve additional students without exceeding the adopted level of  
36 service.

37           The LOCAL GOVERNMENT shall consider the report and recommendations of  
38 the SCHOOL DISTRICT at its local authorizing hearing or its Functional Equivalent, and  
39 if the LOCAL GOVERNMENT decides to approve the proposed request for the  
40 residential site plan and/or subdivision, the LOCAL GOVERNMENT shall include the  
41 written report and recommendations of the SCHOOL DISTRICT in its findings.

1 If the SCHOOL DISTRICT determines that school capacity is adequate to serve  
2 the proposed development, the SCHOOL DISTRICT shall issue a “certificate of school  
3 concurrency,” which shall constitute competent substantial evidence that the affected  
4 public school or schools can accommodate the additional students. In the event that the  
5 SCHOOL DISTRICT reports that there is not adequate capacity available to serve the  
6 proposed development within three years, then the LOCAL GOVERNMENT agrees not  
7 to approve the proposed subdivision or site plan until such time as the SCHOOL BOARD  
8 can certify that adequate capacity exists and shall notify the applicant accordingly. The  
9 LOCAL GOVERNMENT or the Applicant may request the SCHOOL DISTRICT report  
10 on what actions could be undertaken in order to provide capacity. Thereupon the  
11 SCHOOL DISTRICT, LOCAL GOVERNMENT, and Applicant may enter into  
12 negotiations to evaluate options for proportionate share mitigation or recommend terms  
13 and conditions for a mitigation agreement as more particularly set forth in Section 11 of  
14 this AGREEMENT. Upon the successful execution of a mitigation agreement, the  
15 SCHOOL BOARD shall issue a Certificate of School Concurrency conditioned upon the  
16 execution of a Mitigation Agreement with the SCHOOL BOARD, LOCAL  
17 GOVERNMENT, and Applicant as parties to the agreement which shall be subject to  
18 monitoring and enforceable by the SCHOOL BOARD. A LOCAL GOVERNMENT  
19 may not deny an application for site plan, final subdivision approval, or the functional  
20 equivalent for a development or phase of a development authorizing residential  
21 development for failure to achieve and maintain the level-of-service standard for public  
22 school capacity in a local school concurrency management system where adequate school  
23 facilities will be in place or under actual construction within three (3) years after the  
24 issuance of final subdivision or site plan approval, or the functional equivalent.

## 25 **SECTION 5. OVERSIGHT AND CONFLICT RESOLUTION**

26 The SCHOOL BOARD, the COUNTY and the CITIES shall each appoint a  
27 citizen member to serve on an oversight committee to monitor implementation of the  
28 interlocal agreement, including monitoring and evaluation of the school concurrency  
29 system. Committee members shall receive copies of all final reports and documents  
30 produced pursuant to this interlocal agreement. The committee shall provide for public  
31 comment on the implementation of the interlocal agreement once each year. The  
32 committee shall appoint a chairperson, meet at least annually, and report to participating  
33 LOCAL GOVERNMENTS, the SCHOOL BOARD and the general public on the  
34 effectiveness with which the interlocal agreement is being implemented. SCHOOL  
35 BOARD staff will facilitate this committee’s process, as needed.

36 The SCHOOL BOARD, CITIES and COUNTY agree to work together to resolve  
37 disputes. When the dispute relates to a proposed comprehensive plan amendment  
38 covered by this agreement, the parties shall submit the matter to the Volusia Growth  
39 Management Commission for consistency review. Otherwise, the parties agree to utilize  
40 mediation to resolve disputes and agree that any resolution mutually agreed upon as a  
41 result of mediation shall be binding on both parties. Any costs incurred to resolve the  
42 dispute shall be shared equally between the involved parties. Mediator(s) shall be  
43 selected by one of the following methods:

(a) The Florida Conflict Resolution Consortium; or

(b) A mutually agreed upon Florida Bar certified mediator.

**SECTION 6. JOINT DEVELOPMENT OF SCHOOLS, PARKS, AND OTHER USES**

**A.** The COUNTY, CITIES and SCHOOL BOARD agree to promote and support community development and design by encouraging joint development of property on or adjacent to proposed school sites for parks, recreation and other compatible site activities.

**B.** The COUNTY, CITIES and SCHOOL BOARD mutually agree to the following mechanisms to investigate and implement options for joint design and development of related facilities.

(1) As early as possible, but not later than the execution of formal contracts for site acquisition of each new public school facility, the SCHOOL BOARD shall notify the COUNTY/CITY Manager for purposes of facilitating a meeting to discuss the opportunity for joint utilization and/or development of public school and park sites.

(2) The COUNTY/CITY shall evaluate alternatives and the feasibility for acquiring additional property adjacent to the school and the COUNTY/CITY shall consider recommendations for acquisition and/or joint development of related facilities.

(3) For sites recommended by the COUNTY/CITY, the COUNTY/CITY shall coordinate preparation of joint development plans with the SCHOOL BOARD.

(4) Maintenance responsibilities shall be shared and agreed upon by both parties of the shared facilities.

**SECTION 7. JOINT MEETINGS AND COORDINATION OF PLANNING**

Each party to this agreement shall appoint their Planning Director or designee to represent their respective agency to a committee that shall meet twice per year to discuss issues and formulate recommendations regarding coordination of land use and school facilities planning. Issues for discussion shall include population and student projections, development trends, educational facility needs, co-location and joint use opportunities, and infrastructure improvements needed to support schools and ensure safe student access. These meetings shall be open to the public and public participation shall be an item on the agenda. The committee shall meet in May and October of each year. The SCHOOL BOARD representative shall be responsible for establishing meeting dates, times and agendas and notifying the committee representatives and the press.

1 Prior to the May meeting the SCHOOL BOARD representative shall send letters  
2 to the CITIES and COUNTY representatives inviting the submission of comments, issues  
3 of concern, and/or projects for consideration in the preparation of the upcoming work  
4 program. During the five-year update of the educational plant survey, these letters shall  
5 include the submission of suggestions to be considered in the update of the educational  
6 plant survey.

7 **A.** At the May meeting, the following shall be included as agenda items:

8 (1) Proposed capital budgets for each party. This shall include  
9 the 5-year facilities work program for the SCHOOL BOARD. During the year of the  
10 update to the 5-year educational plant survey, the educational plant survey shall also be  
11 an agenda item.

12 (2) The COUNTY and CITIES shall provide to the SCHOOL  
13 BOARD the proposed annual Capital Improvements Program (CIP)

14 (3) The COUNTY's proposed 5-year road improvement  
15 program.

16  
17 **B.** At the October meeting the following shall be included as agenda items:

18 (1) Student enrollment and population projections.

19 (2) Growth, new development, infill development and  
20 redevelopment plans.

21 (3) Annual School District Report and program changes in  
22 capacity.

23 (4) Consideration of amendments to Concurrency Service  
24 Areas, Level of Service, School Attendance Boundaries.

25 (5) Consideration of new infrastructure needed to serve  
26 planned new schools.

27 (6) Consideration of any updates to the Capital Improvements  
28 Element of the COUNTY and CITIES' Comprehensive Plans.

29 At the conclusion of the October meeting the parties shall agree and base their  
30 plans upon a projection of the amount, type, and distribution of population growth and  
31 student enrollment. The Annual SCHOOL DISTRICT Report as set forth in Section 1(C)  
32 provided by the SCHOOL BOARD representative to the CITIES and COUNTY  
33 representatives shall include the district's adopted work program and shall reflect the  
34 student capacity at each school for use by the CITIES and COUNTY in its review of new  
35 development applications.

1           C.     The COUNTY and CITIES shall also send the SCHOOL DISTRICT a  
2 copy of each Planning Board and Council/Commission agenda.

3           D.     The SCHOOL BOARD shall provide a copy of the Educational Plant  
4 Survey to the COUNTY and CITIES every five years.

5           E.     Semi-annually, each designee to the committee identified in Section 7  
6 shall file a report with their respective Local Planning Agency and SCHOOL BOARD  
7 regarding the implementation of the coordinated planning efforts identified in this  
8 AGREEMENT. If the SCHOOL BOARD or each Local Planning Agency that finds that  
9 the implementation of the agreement is not occurring, it shall make a recommendation to  
10 its local governing body of the steps necessary to achieve successful implementation. All  
11 other parties to this agreement shall receive notice of such recommendations.

12          F.     SCHOOL BOARD Workshop. During June of each year, the SCHOOL  
13 BOARD shall hold a public workshop to consider the status of the District Educational  
14 Facilities Plan, Capital Outlay Program, capacity, projected student populations, and any  
15 policy issues identified during the May planning meeting. All LOCAL  
16 GOVERNMENTS shall be invited to the workshop and have the opportunity to provide  
17 comments on matters relating to the adoption of the capital improvement plan and related  
18 matters.

## 19   **SECTION 8. CAPITAL IMPROVEMENT PLAN**

### 20          **A.     Tentative District Educational Facilities Plan**

21                 Prior to adoption of the district school budget in September of each year, the  
22 SCHOOL BOARD will prepare a tentative district educational facilities plan that  
23 includes long-range planning for facilities needs over the 5-year, 10-year, and 20-year  
24 periods. The BOARD shall submit a copy of its plan to the COUNTY and all  
25 MUNICIPALITIES, providing for comment and input prior to presentation for adoption.

26                 (1)     The Tentative District Educational Facilities Plan shall  
27 include projected student populations apportioned by school, using data and methodology  
28 as referenced in Section 1, Coordinated Planning and Sharing of Information. The Plan  
29 shall also include projected space needs, general location of schools to be constructed  
30 over the 5-year, 10-year, and 20-year time periods and location of future school sites.  
31 The Plan shall be financially feasible for the first five years.

32                 (2)     All the Affected LOCAL GOVERNMENTS may review  
33 the tentative district educational facilities plan and comment to the SCHOOL BOARD on  
34 the consistency of the plan with the local comprehensive plan, whether a comprehensive  
35 plan amendment will be necessary for any proposed educational facility, and whether the  
36 LOCAL GOVERNMENT supports a necessary comprehensive plan amendment.

37                 (3)     The SCHOOL BOARD, the COUNTY, and the  
38 MUNICIPALITIES agree that coordinated planning for locating and construction of  
39 schools with the associated infrastructure is the most cost effective approach to deliver

1 school capacity. Off-site improvements can be planned for at the time of Capital Budget  
2 consideration by both the BOARD and the LOCAL GOVERNMENTS.

3 **B. Annual Capital Outlay Budget**

4 On or before September 30<sup>th</sup> of each year, the SCHOOL BOARD shall adopt the  
5 Annual Capital Outlay Budget which shall fund the subsequent Five-Year Facilities  
6 Work Program and which is included in the Tentative District Educational Facilities Plan.

7 **C. District Facilities Five-Year Work Program**

8 The District's Five-Year Work Program shall contain data and analysis to  
9 demonstrate a financially feasible program of school construction for a five (5) year  
10 period which adds capacity to achieve and maintain the adopted LOS for schools, based  
11 upon the student projections in Section 1. The Work Program will provide for  
12 replacement schools which satisfies the SCHOOL DISTRICT's constitutional obligation  
13 to provide a uniform system of free public schools on a district-wide basis. The  
14 SCHOOL BOARD may adopt a ten (10) year plan to achieve and/or maintain the  
15 necessary satisfactory number of student stations.

16 The SCHOOL DISTRICT's Facilities Five-Year Work Program and each annual  
17 update shall include a description of each school project, the amount of money to be  
18 spent in each fiscal year for the planning, preparation, land acquisition, construction and  
19 renovation of each school project. Each annual update shall also include capacity  
20 improvement committed under Capacity Enhancement Agreements and Mitigation  
21 Agreements. Each annual update will include a new fifth year work program.

22 **SECTION 9. COMPREHENSIVE PLAN AMENDMENTS**

23 The process for the development, adoption, and amendment of Comprehensive  
24 Plan amendments shall be that set forth in Section 163.3184, Florida Statutes and Section  
25 202.3 of the Volusia County Charter.

26 **A. Process for Development, Adoption and Amendment of the Public**  
27 **School Facilities Element (PSFE).**

28 (1) The COUNTY and MUNICIPALITIES shall adopt a  
29 Public School Facilities Element, which is consistent with this AGREEMENT and  
30 Rule 9J-5.025, F.A.C. The COUNTY and MUNICIPALITIES shall notify the  
31 SCHOOL DISTRICT when this element is adopted and when the element becomes  
32 effective.

33 (2) Any local issues not specifically required by Statute or  
34 Rule in the Public School Facilities Element may be included or modified in the  
35 Local Government Public School Facilities Element by following the normal  
36 Comprehensive Plan amendment process.

1                   **B.       Intergovernmental Coordination Element**

2           The Intergovernmental Coordination Element shall provide for coordination  
3 between SCHOOL BOARD, COUNTY and Municipalities pursuant to this  
4 AGREEMENT. This coordination shall include, but not be limited to, procedures to  
5 identify and implement joint processes, review of capacity and level of service issues  
6 which affect multiple local governments, coordination and sharing of information among  
7 local governments, modifications to concurrency service areas, and provisions for  
8 providing infrastructure to future school sites.

9                   **C.       Process for Development and Adoption of Capital Improvements**  
10 **Element**

11                               (1)   The SCHOOL DISTRICT shall prepare “The  
12 SCHOOL DISTRICT of Volusia County Capital Improvement Schedule” as part of  
13 the SCHOOL DISTRICT’s Five-Year Facilities Work Program and the COUNTY  
14 and the MUNICIPALITIES shall include the Schedule into the Capital  
15 Improvements Element (CIE) of their comprehensive plan, pursuant to the Schedule  
16 set forth in Section 14.

17                               (2)   The procedures for the annual update and amendment  
18 of the LOCAL GOVERNMENT’s public school Facilities Work Program in its  
19 Capital Improvements Element is set forth in Section 8 of this AGREEMENT.

20                   **D.       Amend Land Development Regulations**

21           Prior to February 1, 2008, COUNTY and each MUNICIPALITY shall adopt land  
22 development regulations necessary to implement the comprehensive plan provisions to  
23 implement school concurrency and Section 206 of the Volusia County Charter.

24 **SECTION 10.           SCHOOL CONCURRENCY OVERVIEW**

25                   **A.       Agreement to Establish School Concurrency**

26           The PARTIES desire to establish a public school concurrency system consistent  
27 with the requirements of Section 163.3180, Florida Statutes.

28           The PARTIES agree that the delivery of timely planned and constructed public  
29 school facilities at the adopted level of service requires close coordination among the  
30 PARTIES at both the land use planning and residential development permitting levels.  
31 Further, the PARTIES agree that new and renovated/redeveloped school facilities should  
32 be planned for and provided in proximity to those areas planned for residential  
33 development or redevelopment. Accordingly, to implement an effective school planning  
34 and concurrency system that will ensure that the planning, construction, maintenance,  
35 renovation, and replacement of public educational facilities are coordinated in time and  
36 place with residential development concurrently with other necessary services, the  
37 PARTIES agree that the SCHOOL BOARD must be afforded the opportunity to review  
38 and provide timely findings and recommendations to the COUNTY and the

1 MUNICIPALITIES on proposed amendments to their respective Comprehensive Plans  
2 and re-zonings as set forth in this Agreement and Section 206 of the Volusia County  
3 Charter. When done in a cooperative and forward-looking manner, this planning should  
4 make implementation of concurrency at the development order stage easier to implement.

5 The PARTIES agree that in order to provide future public school facilities in a  
6 timely manner at appropriate locations, residential development orders or Functional  
7 Equivalent issued by the COUNTY and by each MUNICIPALITY shall be issued and  
8 conditioned only if there is availability of public school facilities at the level of service  
9 specified in this AGREEMENT concurrent with the impact of such development. A  
10 determination that school capacity is available before issuance of a development order  
11 Functional Equivalent, consistent with the level of service standard, hereafter referred to  
12 as “concurrency,” shall be based upon the adopted Public School Facilities Element and  
13 Capital Improvement Element of the COUNTY’s and MUNICIPALITIES’  
14 comprehensive plans that is consistent with the SCHOOL DISTRICT’s Five-Year  
15 Facilities Work Program and which shall be implemented by Land Development  
16 Regulations adopted by each LOCAL GOVERNMENT consistent with Section 8. A  
17 LOCAL GOVERNMENT may not deny an application for site plan, final subdivision  
18 approval, or the functional equivalent for a development or phase of a development  
19 authorizing residential development for failure to achieve and maintain the level-of-  
20 service standard for public school capacity in a local school concurrency management  
21 system where adequate school facilities will be in place or under actual construction  
22 within three (3) years after the issuance of final subdivision or site plan approval, or the  
23 functional equivalent.

#### 24 **B. Required Concurrency Elements**

25 Comprehensive Plan Amendments - No later than February 1, 2008, the LOCAL  
26 GOVERNMENTS agree to adopt the following comprehensive plan amendments which  
27 shall be consistent with each other as required in Section 163.3180, Florida Statutes:

28 (1) Amend its comprehensive plan to add a Public Schools  
29 Facilities Element (PSFE) consistent with the requirements of Section 163.3180,  
30 Florida Statutes, and this AGREEMENT.

31 (2) Amend its Intergovernmental Coordination Element  
32 (ICE) as required by Section 163.3177(6) (h) 1. and Florida Statutes, and this  
33 AGREEMENT.

34 (3) Incorporate “The SCHOOL DISTRICT of Volusia  
35 County’s Five-Year Facilities Work Program” into its adopted Capital Improvement  
36 Element (CIE), and keep on file the updated and adopted SCHOOL DISTRICT’s  
37 Five-Year Facilities Work Program in order to set forth a financially feasible public  
38 school Facilities Work Program, consistent with the adopted Level of Service  
39 Standards for public schools.

1                   **C.      Specific Responsibilities of the Parties**

2                   When the comprehensive plan amendments adopted in accordance with Section 9  
3 become effective, the COUNTY AND MUNICIPALITIES agree to undertake the  
4 following activities:

5                               (1)     Each LOCAL GOVERNMENT shall adopt land  
6 development regulations consistent with the Public School Facilities Element and the  
7 requirements of this AGREEMENT. For school planning issues governed by  
8 Section 206 of the Volusia County Charter, the COUNTY's ordinance shall govern.  
9 For all other matters covered by this agreement, if a CITY fails to adopt land  
10 development regulations implementing school concurrency, the appropriate sections  
11 of the COUNTY's land development regulations shall govern.

12                           (2)     Once the School Concurrency Program commences,  
13 the LOCAL GOVERNMENTS agree not to issue any development orders for new  
14 residential units until the SCHOOL DISTRICT has reported that there is school  
15 capacity available to serve the development being approved consistent with the  
16 requirements of this AGREEMENT. The LOCAL GOVERNMENT processing an  
17 application for a development order shall contact the School District to ascertain the  
18 affected Local Governments which could be impacted by a proposed development  
19 order and be responsible for notification of any and all Affected LOCAL  
20 GOVERNMENTS.

21                           (3)     By entering into this Interlocal AGREEMENT, the  
22 SCHOOL DISTRICT agrees to undertake the following activities:

23                               (a)     Prepare and update annually a financially feasible  
24 Five-Year Facilities Work Program which reports on anticipated capacity to meet  
25 demand for student stations and where there is projected funding to meet capacity at a  
26 projected date such that the plan is financially feasible such that for all schools of each  
27 type in each Concurrency Service Area and each individual school does not exceed the  
28 adopted level of service for each year except as provided with this AGREEMENT and  
29 the Public School Facilities Element (PSFE).

30                               (b)     Adopt the SCHOOL DISTRICT's Five-Year  
31 Facilities Work Program.

32                               (c)     Provide the COUNTY and MUNICIPALITIES with  
33 the required data and analysis updated annually to evaluate the comprehensive plan  
34 elements and any amendments relating to school concurrency.

35                               (d)     Approve a ten and twenty year work program  
36 consistent with the requirements of this AGREEMENT.

37                               (e)     Maintain and publish data which shows the existing  
38 capacity, projected annual capacity, including reservation of future capacity, in such a

1 manner that it could be used by LOCAL GOVERNMENTS and developers in planning  
2 for new residential development.

3 (f) Review applications for proposed new residential  
4 developments for compliance with concurrency standards, consistent with the  
5 requirements of this AGREEMENT.

6 (g) Review mitigation proposals consistent with the  
7 requirements of this AGREEMENT.

8 (h) Prepare reports on enrollment and capacity,  
9 consistent with the requirements of this AGREEMENT.

10 (i) Coordinate planning with the COUNTY and  
11 MUNICIPALITIES regarding population projections, school siting, projections of  
12 development and redevelopment for the coming year, infrastructure required to support  
13 public school facilities, and amendments to future land use plan elements consistent with  
14 the requirements of this AGREEMENT.

#### 15 **D. Amend Comprehensive Plan**

16 Upon the adoption of the SCHOOL DISTRICT's Capital Outlay Budget and  
17 Five-Year Facilities Work Program, the SCHOOL BOARD shall transmit copies to the  
18 COUNTY and all MUNICIPALITIES which shall thereupon amend "The SCHOOL  
19 DISTRICT of Volusia County Capital Improvement Schedule" of the Capital  
20 Improvement Element of its Comprehensive Plans to include the changes in the next  
21 round of amendments.

### 22 **SECTION 11. SCHOOL CONCURRENCY PROGRAM**

#### 23 **A. Commencement of School Concurrency Program**

24 The School Concurrency Program described in this Article shall commence no  
25 later than February 1, 2008.

#### 26 **B. Concurrency Program Process**

27 As more particularly set forth in Section 4(d), the SCHOOL DISTRICT agrees to  
28 review and make school concurrency determinations for a proposed residential  
29 development for which an application for a development order or functional equivalent is  
30 submitted and LOCAL GOVERNMENTS agree not to issue development orders unless a  
31 Certificate of School Concurrency is issued which shows that school capacity can be  
32 provided to serve the proposed development. Upon applicant submitting and SCHOOL  
33 DISTRICT receiving application, SCHOOL DISTRICT staff shall have fifteen (15)  
34 working days to provide concurrency report to applicable LOCAL GOVERNMENT  
35 consistent with Section 4 (D) of this AGREEMENT. The report shall detail whether or  
36 not school capacity will be available to serve the proposed development. The report shall  
37 include a Certificate of School Concurrency if sufficient capacity exists for the proposed

1 development or it may set forth conditions required to satisfy the requirements of school  
2 concurrency including proportionate share mitigation.

3 **C. Proportionate Share Mitigation**

4 In the event that the SCHOOL DISTRICT determines that there is not sufficient  
5 capacity available to serve the proposed residential development, the developer and  
6 SCHOOL DISTRICT and LOCAL GOVERNMENT may enter into negotiations in an  
7 effort to mitigate the impact from the development. Mitigation options must consider the  
8 SCHOOL DISTRICT's educational delivery methods and requirements, and the State  
9 Requirements for Educational Facilities (S.R.E.F.) and may include, but not be limited to,  
10 the following:

11 (1) Donation of buildings for use as a primary or  
12 alternative learning facility; and/or

13 (2) Renovation of existing buildings for use as learning  
14 facilities; or

15 (3) Funding dedicated to, or construction of permanent  
16 student stations or core capacity; or

17 (4) For schools contained in the adopted SCHOOL  
18 DISTRICT's Five-Year Facilities Work Program only, upon agreement with the  
19 SCHOOL BOARD, the developer may build the school in advance of the time set  
20 forth in the SCHOOL DISTRICT's Five-Year Facilities Work Program; or

21 (5) Agreement to contribute funds or other assets toward a  
22 specific capacity project sufficient to advance the project into the District Five Year  
23 Facilities Work Program for the subsequent year.

24 (6) Dedication of school site as approved by the SCHOOL  
25 BOARD; or

26 (7) Up front lump sum payment of school impact fees; or

27 (8) Payment of borrowing costs; or

28 (9) Payment of off-site infrastructure expenses, including  
29 but not limited to roads, water, and/or sewer improvements and pedestrian facilities;  
30 or

31 (10) Payment of transportation costs associated with the  
32 movement of students outside two (2) mile zone as a result of overcapacity school,  
33 or

34 (11) Funding assistance with acquisition of school site.

(12) Phasing of construction or delay of construction in order to timely plan for availability of school capacity.

(13) Establishment of an Educational Facilities Benefit District, as provided in Sec. 1013.355, Fl. Stat.

(14) Impact fee credits may be granted as permitted by law and agreed upon by SCHOOL BOARD.

(15) Construction of a charter school provided that such school is approved by the SCHOOL BOARD and its construction meets the Florida Building Code and State Requirements for Educational Facilities and any enhanced hurricane protection area requirements as determined by Volusia County Emergency Management, and provides for a reverter clause to the SCHOOL BOARD in the event that the school should close.

(16) Any other measure approved by the SCHOOL BOARD which actually increases school capacity or accelerates a project on the Five Year Work Program.

#### **D. Issue Certificate of School Concurrency**

A Certificate of School Concurrency shall be issued if the impacts of the proposed development's projected student enrollment do not cause the adopted Level of Service (or Tiered or Interim LOS) to be exceeded. If the development is not in compliance, the Certificate of School Concurrency shall detail why the development is not in compliance and shall offer the applicant the opportunity to enter into the 90 day negotiations described below.

If the conclusion of the negotiation period results in an executed mitigation agreement, a Certificate of School Concurrency shall be issued and shall be conditioned upon those mitigation measures agreed to by the developer/applicant/property owner and the SCHOOL BOARD. The mitigation measures shall be memorialized in the mitigation agreement between the SCHOOL BOARD, LOCAL GOVERNMENT and the Developer/applicant/property owner that specifically details mitigation provisions to be provided and the relevant terms and conditions. If mitigation is not agreed to, the SCHOOL DISTRICT shall not issue a Certificate of School Concurrency.

A Certificate of School Concurrency issued by the SCHOOL DISTRICT shall be valid for the duration of the Final Development Order, but no longer than two (2) years. A Certificate of School Concurrency issued to a Developer/applicant/property owner shall be site specific and not be transferable to other sites without the approval of the SCHOOL BOARD and LOCAL GOVERNMENT.

#### **E. Concurrency Service Areas.**

The PARTIES hereby agree that initially School Concurrency shall be measured and applied on the basis of Concurrency Service Areas (CSA's) as follows:

1 (a) Elementary Schools. The Concurrency Service Areas for  
2 elementary schools shall be coterminous to the school attendance boundary of each  
3 school as shown on Map 8A as modified by the central no school zone areas. School  
4 attendance boundaries may be amended from time to time by the SCHOOL BOARD, in  
5 its sole discretion. The initial CSA map is attached hereto as Exhibit A.

6 (b) Middle Schools. The Concurrency Service Areas for middle  
7 schools shall be coterminous to the school attendance boundary of each school as shown  
8 on Map 8B as modified by the central no school zone areas. School attendance  
9 boundaries may be amended from time to time by the SCHOOL BOARD, in its sole  
10 discretion. The initial CSA map is attached hereto as Exhibit B.

11 (c) High Schools. The Concurrency Service Areas for high schools  
12 shall be as shown on Map 7 as modified by the central no school zone areas. The initial  
13 CSA map is attached hereto as Exhibit C.

14 (d) No School Zones. The Concurrency Service Areas include areas  
15 identified as No School Zones on Maps 7, 8A and 8B because no schools are planned  
16 within the area within the 20 year time horizon and that no school capacity exists within  
17 the zone for the purpose of increasing residential densities and approving additional  
18 residential development.

19 (e) Comprehensive Plans. The COUNTY and MUNICIPALITIES  
20 agree to incorporate and adopt the CSA's and the standards for the modification of the  
21 CSA's as established into the Public Schools Facilities Element of each LOCAL  
22 GOVERNMENTS' comprehensive plan.

23 (f) Modification. The CSAs may be modified by execution of an  
24 Addendum to this AGREEMENT by the School Board and Affected Local Governments  
25 and subsequent amendment to the Public School Facilities Element by the Affected  
26 LOCAL GOVERNMENTS. Any PARTY may propose a change to the CSA boundaries.  
27 When modifications are proposed to concurrency service areas, consideration shall be  
28 afforded the overarching goal that concurrency service areas reflect the diversity of the  
29 School District in keeping with constitutional and statutory requirements, as well as  
30 policy requirements established by the SCHOOL BOARD. When reviewing proposed  
31 modifications to concurrency service areas, consideration should be given to the  
32 following issues:

33 (1) Adopted level of service standards will not be  
34 adversely impacted for each year of the five year planning period; and

35 (2) The utilization of school capacity is maximized to the  
36 greatest extent possible taking into account transportation costs, court approved  
37 desegregation plans; and

38 (3) Proximity to school

39 (4) Ethnic and socio-economic diversity.

- 1 (5) Subdivisions and neighborhoods.
- 2 (6) Demographic changes.
- 3 (7) Future land development patterns.
- 4 (8) Crossing guard availability.
- 5 (9) Other relevant factors

6 The parties recognize that the above stated issues are considerations but that final  
7 decisions regarding school attendance boundaries are within the discretion of the  
8 SCHOOL BOARD. The PARTIES acknowledge that concurrency service areas may  
9 differ from the school attendance boundaries and not always be coterminous with school  
10 attendance boundaries.

11 (g) Process. The PARTIES shall observe the following process for  
12 modifying CSA's.

13 (1) The Planning Directors, at their regular meetings in  
14 May and October as set forth in Section 14, shall consider whether modifications to  
15 the CSAs should be considered.

16 (2) At such time as the SCHOOL BOARD determines that  
17 the change is appropriate considering the above standards, they shall transmit the  
18 proposed CSA's and data and analysis to support the changes to the  
19 MUNICIPALITIES, and the COUNTY.

20 (3) The COUNTY shall amend its Public School Facilities  
21 Element to include the maps which reflect the changes to the CSA boundaries in  
22 their next amendment round. Subsequently, MUNICIPALITIES may adopt these  
23 changes by amendment to their comprehensive plans or adopt language which  
24 incorporates by reference these subsequent modifications.

25 (4) Modifications of School Attendance Boundaries shall  
26 be by the SCHOOL BOARD as otherwise provided by law. Modifications to a CSA  
27 which are dependent upon modifications to a School Attendance Boundary shall be  
28 effective upon approval by the SCHOOL BOARD and Affected LOCAL  
29 GOVERNMENTS.

#### 30 **F. Adjacent CSA Capacity (Adjacency)**

31 If the projected student growth from the residential development causes the  
32 adopted LOS to be exceeded in the particular CSA and that type of school and capacity  
33 exists in one or more contiguous CSA's, the development shall receive a certificate of  
34 school concurrency provided that the adjacency is determined by the policies and  
35 conditions as established by the SCHOOL BOARD and included in the COUNTY and  
36 MUNICIPALITIES Public School Facilities Element.

1 In conducting the review, the SCHOOL DISTRICT shall use the adjacent CSA  
2 with the most available capacity to evaluate projected enrollment, and if necessary shall  
3 continue to the CSA with the next most available capacity until each of the adjacent  
4 CSA's have been evaluated for available capacity provided that the adjacent CSA meets  
5 the policies and conditions as established by the SCHOOL BOARD and included in the  
6 COUNTY and MUNICIPALITIES Public School Facilities Element.

7 In order to determine if the available adjacent capacity can be utilized, the  
8 following additional criteria shall apply:

9 (1) Travel time and distance. School bus route from the  
10 school to the site of the proposed development should not exceed 50 minutes.

11 (2) Areas established for the purpose of establishing  
12 student diversity at schools shall not be used to determine adjacency.

13 (3) If the boundary is adjacent based on its connection by  
14 Intracoastal Waterway or across Ponce de Leon Inlet, it shall not be deemed  
15 adjacent.

16 (4) Where capacity is reserved for a specific academic  
17 program it cannot be claimed in an adjacent concurrency service area.

#### 18 **G. Level of Service (LOS)**

19 To ensure the capacity of schools is sufficient to support student growth at the  
20 adopted level of service within the five (5) year planning period and through the long  
21 term planning period, for each CSA, the PARTIES hereby establish Levels of Service  
22 (LOS) for types of schools to be applied against CSAs as set forth below. The actual  
23 LOS (utilization) for all schools of each type in each CSA and each individual school  
24 shall be established each year by the 20th day student membership count and shall  
25 consider maximum utilization.

26 Maximum Utilization shall not be construed to mean year round school, double  
27 sessions, split sessions, or transporting students more than fifty minutes from their home  
28 to a school site.

29 The following level of service (LOS) standards shall be established for all schools  
30 of each type within each CSA and each individual school and shall take effect by the date  
31 indicated:

| CONCURRENCY SERVICE AREA |                            |                |
|--------------------------|----------------------------|----------------|
| TYPE OF SCHOOL           | LEVEL OF SERVICE           | DATE EFFECTIVE |
| Elementary               | 115% of permanent capacity | July 1, 2011   |

|        |                                                |                                                                                                                                                                                                                                                                                                                                     |
|--------|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        | Interim LOS:<br><br>115%<br>115%<br>165%       | DeBary Elementary July 1, 2012<br>Horizon Elementary July 1, 2012<br>Manatee Cove Elementary July 1, 2012<br>Orange City Elementary July 1, 2012<br>Pine Trail Elementary July 1, 2014<br>Sugar Mill Elementary July 1, 2012<br><b>Constrained July 1, 2017:</b><br><br>Burns Oak Hill<br>Coronado Elementary<br>Samsula Elementary |
| Middle | 115% of permanent capacity<br><br>Interim LOS: | July 1, 2010<br><br>New Smyrna Beach Middle July 1, 2012<br>Southwestern Middle July 1, 2012                                                                                                                                                                                                                                        |
| High   | 120% of permanent capacity                     | July 1, 2010                                                                                                                                                                                                                                                                                                                        |

1 The LOS for each type of school as set forth above shall be effective July 1, 2011,  
2 at the end of the first five year capital improvement plan which shall be the initial  
3 planning period. It is recognized that it is not financially feasible to achieve the LOS for  
4 all schools within that initial planning period so the planning period for the individual  
5 schools set forth above is extended to the listed effective date. In addition, there are  
6 individual schools listed as “constrained” within a 10 year planning period and the  
7 Interim LOS is stated and cannot be exceeded during that time. At the end of the  
8 planning period the LOS will be 115%.

9 Potential amendments to these levels of service shall be considered at least  
10 annually at the staff working group meeting to take place no later than June 1 of each  
11 year. If there is a consensus to amend any level of service, it shall be accomplished by  
12 the execution of an amendment to this interlocal agreement by all parties and the  
13 adoption of amendments to the COUNTY’s and each CITY’s comprehensive plan. The  
14 amended level of service shall not be effective until all plan amendments are effective  
15 and the amended interlocal agreement is fully executed. No level of service shall be  
16 amended without a showing that the amended level of service is financially feasible and  
17 can be achieved and maintained over the five years of the Five-Year Capital Facilities

1 Plan. After the first five years of the Five-Year Capital Facilities Plan, capacity shall be  
2 maintained within each year of subsequent Five-Year Capital Facilities Plans.

### 3 **H. Exemptions**

4 The following residential projects are deemed to be de minimis and not subject to  
5 School Concurrency review:

6 (1) Single family lots of record on a recorded plat, existing  
7 as such at the time School Concurrency implementing ordinance is adopted for  
8 which otherwise would be entitled to build, shall be exempt from School  
9 Concurrency requirements.

10 (2) The creation of subdivisions and/or single family lots  
11 equal to or less than ten (10) residential units. All subdivisions creating greater than  
12 ten (10) or more lots shall be reviewed for available school capacity.

13 (3) Any residential development or any other development  
14 with a residential component that received approval of a Final Development Order or  
15 Functional Equivalent prior to the implementation date of school concurrency or is  
16 exempt from concurrency under a LOCAL GOVERNMENT's concurrency  
17 regulations is considered vested for that component which was previously approved  
18 for construction and shall not be considered as proposed new residential  
19 development for purposes of school concurrency.

20 (4) Any unit exempted under the Volusia County School  
21 Facilities Impact Fee Ordinance as set forth in Sec. 70-181 (a).

22 (5) Non-residential development.

### 23 **I. Local Concurrency Implementing Ordinance**

24 Prior to February 1, 2008, each LOCAL GOVERNMENT shall adopt an  
25 ordinance regulating the issuance of development orders based on the availability of  
26 public schools at the required Level of Service. This ordinance shall be consistent with  
27 the provisions of this AGREEMENT.

28 In the event that any participating MUNICIPALITY does not comply with the  
29 above by adopting an ordinance consistent with this AGREEMENT within ninety (90)  
30 days of the effective date of the Comprehensive Plan Elements, that government shall be  
31 deemed to have "opted in" to the COUNTY ordinance and agrees to be bound by the  
32 terms and provisions therein until it adopts its own ordinance.

33 At any time any LOCAL GOVERNMENT may opt out of the COUNTY's  
34 implementing ordinance through implementing its own ordinance.

1     **SECTION 12.           SPECIAL PROVISIONS**

2             **A.       SCHOOL BOARD Requirements.**

3             The PARTIES acknowledge and agree that the SCHOOL DISTRICT is or may be  
4     subject to the requirements of the Florida and United States Constitutions and other state  
5     or federal statutes regarding the operation of the public school system. Accordingly, the  
6     COUNTY, the MUNICIPALITIES and the SCHOOL DISTRICT agree that this  
7     AGREEMENT is not intended, and will not be construed, to interfere with, hinder, or  
8     obstruct in any manner, the SCHOOL DISTRICT's constitutional and statutory  
9     obligation to provide a uniform system of free public schools on a county-wide basis or  
10    to require the SCHOOL DISTRICT to confer with, or obtain the consent of the  
11    COUNTY or the MUNICIPALITIES, as to whether that obligation has been satisfied.  
12    Further, the COUNTY, the MUNICIPALITIES and the SCHOOL DISTRICT agree that  
13    this AGREEMENT is not intended and will not be construed to impose any duty or  
14    obligation on the COUNTY or MUNICIPALITY for the SCHOOL DISTRICT's  
15    constitutional or statutory obligation. The COUNTY and the MUNICIPALITIES also  
16    acknowledge that the SCHOOL DISTRICT's obligations under this AGREEMENT may  
17    be superseded by state or federal court orders or other state or federal legal mandates.

18            **B.       Land Use Authority**

19            The PARTIES specifically acknowledge that each LOCAL GOVERNMENT is  
20    responsible for approving or denying comprehensive plan amendments and development  
21    orders within its own jurisdiction. Nothing herein represents or authorizes a transfer of  
22    this authority to any other party. Furthermore, this subsection does not limit the authority  
23    of a LOCAL GOVERNMENT to grant or deny a development order or its equivalent  
24    prior to implementation of School Concurrency.

25            **C.       Acts of God and other exigent circumstances beyond the control of the**  
26    **SCHOOL BOARD**

27            The COUNTY and the MUNICIPALITIES acknowledge that the SCHOOL  
28    DISTRICT, in its operation of the public school system, is subject to events,  
29    circumstances, and external forces and authorities beyond its control. Examples are  
30    hurricanes or other natural disasters which destroy school facilities, other emergency  
31    situations affecting the operation of the public school system, state court judgments  
32    concerning the SCHOOL DISTRICT's State Constitutional or Statutory obligation to  
33    provide a uniform system of free public schools, and school desegregation orders or  
34    compliance agreements involving Federal Courts or the Office of Civil Rights, United  
35    States Department of Education. Such events or actions may prevent the SCHOOL  
36    DISTRICT from complying with the provisions of this AGREEMENT and may require  
37    the SCHOOL DISTRICT to deviate from or modify the SCHOOL DISTRICT's Five-  
38    Year Facilities Work Program agreed to and approved by the COUNTY, the  
39    MUNICIPALITIES and the SCHOOL DISTRICT. The COUNTY and the  
40    MUNICIPALITIES hereby agree that such noncompliance, deviations, or modifications

1 will not be deemed a violation of this AGREEMENT and that the provisions of  
2 suspension will pertain to those occurrences.

3 **SECTION 13. THIRD PARTY BENEFICIARY RIGHTS**

4 The PARTIES hereby acknowledge and agree that it is not the intent of any party  
5 to this AGREEMENT to confer any rights on any persons or entities other than the  
6 PARTIES to this AGREEMENT. No person or entity not a party to this AGREEMENT  
7 shall have any claim or cause of action against either the COUNTY, the  
8 MUNICIPALITIES or the SCHOOL DISTRICT for the failure of any party to perform in  
9 accordance with the provisions of this AGREEMENT except as may be provided by law.

10 The COUNTY and each individual MUNICIPALITY that is a PARTY to this  
11 AGREEMENT agrees to notify the SCHOOL BOARD in the event of third party claim,  
12 liability, lawsuit, and damage award arising out of the performance of this  
13 AGREEMENT for any acts, failure to act, or decisions of that PARTY that are totally  
14 within the purview of that party or are the responsibility of that party under this  
15 AGREEMENT. Acts or decisions of the COUNTY or an individual municipality  
16 include, but are not limited to, the denial of an application for development approval  
17 based on school impacts after the SCHOOL DISTRICT has informed that party that  
18 adequate school capacity exists for the development.

19 **SECTION 14. COORDINATED CALENDAR FOR EDUCATIONAL**  
20 **FACILITIES PLANNING AND CAPITAL BUDGETS**

21 This agreement contemplates the following schedule of coordinated actions by the  
22 SCHOOL DISTRICT, and LOCAL GOVERNMENTS. The PARTIES agree to work  
23 together to assist each other in meeting the time requirements as set forth in this  
24 agreement or as otherwise provided by law.

25 **January:** Concurrency Service Area Planning meetings.

26 **February 1:** Annual adjustment of School Impact Fee.

27 **March-May:** Annual State Legislative Session where Budget is Adopted;  
28 Facilities Plan Workshops.

29 **April 1:** LOCAL GOVERNMENTS shall supply SCHOOL DISTRICT with  
30 information concerning population projections, certificates of occupancy, and building  
31 permit applications.

32 **May:** Joint Meetings of Planning Directors to coordinate and discuss planning  
33 issues.

34 **June:** SCHOOL BOARD holds Public Workshop on Facilities Planning.

35 **July:** School District Capital Budget published; LOCAL GOVERNMENTS  
36 adopt TRIM rates; Fiscal Year for SCHOOL DISTRICT begins.

- 1           **August:** Tentative District Educational Facilities Plan published.
- 2           **September 30:** SCHOOL BOARD adopts Annual Capital Outlay Budget based  
3 upon District Educational Facilities Plan and includes Schedule of Capital Improvements;  
4 LOCAL GOVERNMENTS adopt Budget.
- 5           **October 1:** SCHOOL DISTRICT shall compile 20<sup>th</sup> day student enrollment  
6 membership count; Fiscal Year for LOCAL GOVERNMENTS.
- 7           **October:** Joint Meetings of Planning Directors to discuss coordination of  
8 planning.
- 9           **November:** LOCAL GOVERNMENTS adopt Capital Improvement Element
- 10          **December:** Superintendent and staff discuss facilities needs for coming year.

11   **SECTION 15.           DEFINITIONS**

12          **Adequate School Capacity** – The circumstance where there is sufficient school  
13 capacity by school type, based on adopted level of service (LOS) standards, to timely  
14 accommodate the demand created by a proposed residential development.

15          **Affected Local Government** – Each LOCAL GOVERNMENT within a school  
16 attendance zone of an individual school.

17          **Ancillary facility** – Non-instructional buildings and/or sites utilized for such  
18 facilities as vehicle maintenance, warehouses, maintenance, or administrative buildings  
19 necessary to provide support services to an educational program.

20          **Auxiliary spaces** – Non-instructional spaces within an educational facility.

21          **Capacity** – The number of students that may be housed in a facility at any given  
22 time based on a utilization percentage of the total number of existing satisfactory student  
23 stations.

24          **Capacity Enhancement Agreement** – An agreement entered into by the LOCAL  
25 GOVERNMENT, SCHOOL BOARD and applicant for a comprehensive plan  
26 amendment or rezoning which increases residential densities in order for a Finding of  
27 Adequate School Capacity to be issued by the SCHOOL DISTRICT.

28          **Capacity Projects** - New school construction or any project that adds necessary  
29 improvements to accommodate additional permanent student stations or auxiliary  
30 facilities needed for the educational program of each type of school based on the  
31 requirements of State Requirements for Educational Facilities (SREF).

32          **Cities** - All cities (aka municipalities) in Volusia County, except those that are  
33 exempt from participating in the school concurrency program, pursuant to Section  
34 163.3180, Florida Statutes.

1       **Class Size Reduction** – Article IX, Section 1 of the Florida Constitution, which  
2 was ratified by voters in November 2002 and was implemented by Florida Statute  
3 1003.03. This amendment dictates the maximum class sizes as follows: 18 students per  
4 classroom for Pre-K through grade 3; 22 students per classroom for grades 4 – 8; and 25  
5 students per classroom for grades 9-12.

6       **Comprehensive Plan** – a plan adopted by a LOCAL GOVERNMENT that meets  
7 the requirements of Sections 163.3177 and 163.3178, Florida Statutes

8       **Concurrency** – The necessary public facilities and services to maintain the  
9 adopted level of service standards are available when the impacts of development occur.

10       **Concurrency Service Area (CSA)** - The specific geographic unit within a  
11 SCHOOL DISTRICT in which school concurrency is applied and measured.

12       **Concurrency Service Area Level of Service Standards** - The maximum  
13 acceptable percentage of school utilization determined by dividing the total number of  
14 students for all schools of each type in each CSA by the total number of permanent  
15 student stations for that type of school in each CSA.

16       **Consistency** - The condition of not being in conflict with and in furtherance of  
17 the goals, objectives and policies of the Comprehensive Plan Elements and this  
18 AGREEMENT.

19       **County of Volusia** - a political subdivision of the State of Florida (aka  
20 COUNTY).

21       **Development Order** – any order granting, denying, or granting with conditions  
22 an application for a development permit.

23       **Development Permit** – includes any building permit, zoning permit, subdivision  
24 approval, PUD rezoning, certification, special exception, variance, or any other official  
25 action of LOCAL GOVERNMENT having the effect of permitting the development of  
26 land.

27       **Educational Facilities** - The buildings and equipment, structures, and special  
28 educational use areas that are built, installed, or established to serve educational purposes  
29 only.

30       **Educational Plant Survey** – A systematic study of educational and ancillary  
31 plants and the determination of future needs to provide appropriate educational programs  
32 and services for each student.

33       **Final Development Order** - The approval of a subdivision or final plat under a  
34 local government land development regulation which authorizes construction to take  
35 place.

1       **Financially Feasible Facilities Plan** - A plan which demonstrates the ability to  
2 finance capital improvements from existing and reasonably anticipated future revenue  
3 sources and funding mechanisms to correct deficiencies and meet future needs based on  
4 achieving and maintaining the adopted Level of Service for each year of the five (5) year  
5 planning period for all schools of each type in each CSA and each individual school, and  
6 for the long range planning period.

7       **First FTE Student Count** – A first semester count of all “full time equivalent”  
8 students. The date of the first FTE count is determined by the Florida Department of  
9 Education each school year, pursuant to Chapter 1011.62 Florida Statutes.

10       **FISH – Florida Inventory of School Houses.** An official inventory report of all  
11 district owned facilities.

12       **Five Year Work Plan** - The SCHOOL DISTRICT of Volusia County Five-Year  
13 District Facilities Work Program adopted pursuant to Section 1013.35 Florida Statutes.

14       **FTE** – full time equivalent

15       **Functional Equivalent** –\_That point in the process of residential site plan  
16 approval or subdivision approval under a Local Government's land development  
17 regulation where the concurrency management system requires a test to be made for  
18 concurrency.

19       **Land Use** – means the development that has occurred on the land, the  
20 development that is proposed by a developer on the land, or the use that is permitted or  
21 permissible on the land under an adopted comprehensive plan or element or portion  
22 thereof, land development regulations, or a land development code, as the context may  
23 indicate.

24       **Level of Service (LOS)** - The maximum measure of the utilization, expressed as  
25 a percentage, which is the result of comparing the number of students with the permanent  
26 student capacity at a given location within a designated area.

27       **Local Governments** - Volusia County and the MUNICIPALITIES (CITIES).

28       **Maximum Utilization of Capacity** - Utilization of facilities to ensure the  
29 adopted LOS for all schools of each type in each CSA and each individual school is not  
30 exceeded.

31       **Mitigation Agreement** – An agreement entered into by the LOCAL  
32 GOVERNMENT, SCHOOL BOARD and applicant for a Final Development Order  
33 which serves to provide the necessary school capacity to meet the level of service  
34 requirements within the SCHOOL BOARD’S Five Year Work Program.

35       **Municipalities** - All MUNICIPALITIES (aka CITIES) in Volusia County.

1           **Permanent Student Capacity** – The estimated number of students that can be  
2 satisfactorily housed in an educational facility at any given time based upon a percentage  
3 of satisfactory permanent student stations. In Volusia County portables are not included  
4 in permanent student capacity.

5           **Permanent Student Station** – The net square footage requirements per student  
6 based on the instructional program to be housed in the educational facility. Permanent  
7 student stations in Volusia County do not include student stations in portables.

8           **Proposed New Residential Development** - Any application for residential  
9 development or amendment to a previously approved residential development that  
10 increases the number of housing units. This shall include any request for any approval of  
11 the type that establishes a density of development and which approves a Site Specific  
12 Development Order on a specific parcel of property.

13           **Required School Replacements** - A comprehensive upgrading of schools to “like  
14 new” school standards. This requires a comprehensive evaluation of schools, which have  
15 been determined to need rehabilitation, remodeling or replacement of the facility.

16           **Residential Development** - Any development that is comprised in whole, or part,  
17 of dwelling units for permanent human habitation.

18           **SREF** – State Requirements for Educational Facilities, which dictates the  
19 standards for school construction pursuant to Florida Department of Education.

20           **School attendance area boundary** – The geographic area by which the  
21 SCHOOL BOARD determines student membership at specific schools.

22           **SCHOOL BOARD** - The governing body of the SCHOOL DISTRICT, a body  
23 corporate pursuant to Section 230.21, Florida Statutes.

24           **SCHOOL DISTRICT** - The district for Volusia County created and existing  
25 pursuant to Section 4, Article IX of the State Constitution.

26           **School District Five-Year Facilities Work Program** - The SCHOOL  
27 DISTRICT of Volusia County Five-Year Work Plan and Capital Budget as authorized by  
28 Section 1013.35 Florida Statutes.

29           **School District of Volusia County Capital Improvement Schedule** - A table of  
30 expenditures and revenues from the Capital Outlay Budget and Five Year Facilities Work  
31 Program detailing how the SCHOOL DISTRICT shall achieve and maintain the Level of  
32 Service for public school facilities.

33           **Site Plan or Subdivision** - a residential site plan approval or subdivision approval  
34 or a Functional Equivalent under a local government land development regulation which  
35 authorizes construction to begin.

1       **Timely Planned and Constructed** – Adequate educational facilities are planned  
2 for on the District Educational Facilities Plan and are on a financially feasible five-year  
3 work plan at a time to meet the needs of new development.

4       **Type of School** - Schools in the same categories of education, i.e. elementary,  
5 middle or high school.

6       **SECTION 16.       AMENDMENT OR WITHDRAWAL FROM AGREEMENT**

7           **A.       Amending the AGREEMENT**

8           This AGREEMENT may be amended. Furthermore, this AGREEMENT shall  
9 undergo review every five (5) years to ensure its effectiveness and applicability to current  
10 regulations and/or policies.

11          **B.       Withdrawal from AGREEMENT**

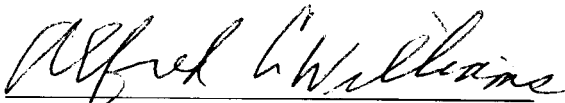
12          No PARTY shall withdraw from this AGREEMENT without notification to the  
13 Department of Community Affairs. Any PARTY that is no longer required by Section  
14 163.3177(12)(b) to adopt a Public Schools Facilities Element, shall be exempt from the  
15 School Concurrency provisions of this Agreement, but shall continue to be bound by the  
16 other provisions of this AGREEMENT.

17       **SECTION 17.       EFFECTIVE DATE**

18          This AGREEMENT shall take effect on July 1, 2007.

19          IN WITNESS WHEREOF, this constitutes the entire AGREEMENT between the  
20 parties and the parties hereto have caused this AGREEMENT to be executed by their  
21 duly authorized representatives.

**THE SCHOOL BOARD OF VOLUSIA  
COUNTY, FLORIDA**



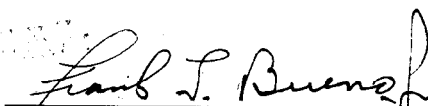
Alfred C. Williams, Ed.D.  
Chairman

ATTEST



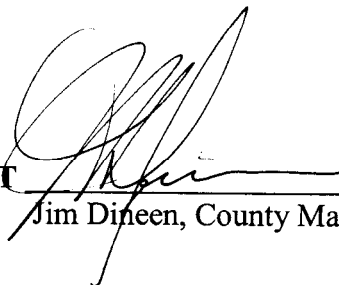
Margaret A. Smith, D.Ed.  
Superintendent

**THE COUNTY OF VOLUSIA**



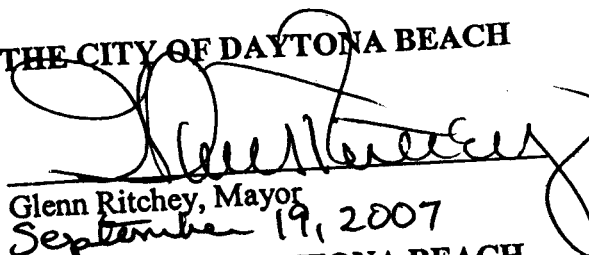
Frank T. Bruno, County Chair

ATTEST



Jim Dineen, County Manager

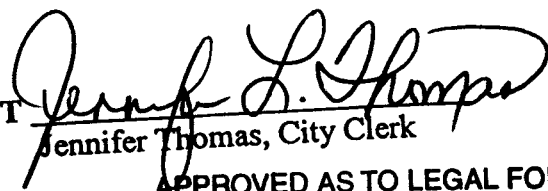
**THE CITY OF DAYTONA BEACH**

  
Glenn Ritchey, Mayor

September 19, 2007

**THE CITY OF DAYTONA BEACH  
SHORES**

ATTEST

  
Jennifer Thomas, City Clerk

APPROVED AS TO LEGAL FORM:

  
CITY ATTORNEY

\_\_\_\_\_  
Greg Northrup, Mayor

ATTEST

\_\_\_\_\_  
Cheri Schwab, City Clerk

**THE CITY OF DEBARY**

\_\_\_\_\_  
George Coleman, Mayor

ATTEST

\_\_\_\_\_  
Maryann Courson, City Clerk

**THE CITY OF DELAND**

\_\_\_\_\_  
Bob Apgar, Mayor

ATTEST

\_\_\_\_\_  
Julie Hennessy, City Clerk

**THE CITY OF DELTONA**

\_\_\_\_\_  
Dennis Mulder, Mayor

ATTEST

\_\_\_\_\_  
Faith Miller, City Clerk

**THE CITY OF EDGEWATER**

\_\_\_\_\_  
Mike Thomas, Mayor

ATTEST

\_\_\_\_\_  
Susan Wadsworth City Clerk

**THE CITY OF DAYTONA BEACH**

\_\_\_\_\_  
Glenn Ritchey, Mayor

ATTEST \_\_\_\_\_  
Jennifer Thomas, City Clerk

**THE CITY OF DAYTONA BEACH  
SHORES**

\_\_\_\_\_  
Greg Northrup, Mayor

ATTEST \_\_\_\_\_  
Cheri Schwab, City Clerk

**THE CITY OF DEBARY**

\_\_\_\_\_  
George Coleman, Mayor

ATTEST \_\_\_\_\_  
Maryann Courson, City Clerk

**THE CITY OF DELAND**

\_\_\_\_\_  
Bob Apgar, Mayor

ATTEST \_\_\_\_\_  
Julie Hennessy, City Clerk

**THE CITY OF DELTONA**

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Dennis Mulder, Mayor

ATTEST \_\_\_\_\_  
Faith Miller, City Clerk

**THE CITY OF EDGEWATER**

\_\_\_\_\_  
Mike Thomas, Mayor

ATTEST \_\_\_\_\_  
Susan Wadsworth City Clerk

**THE CITY OF DAYTONA BEACH**

\_\_\_\_\_  
Glenn Ritchey, Mayor

**ATTEST**

\_\_\_\_\_  
Jennifer Thomas, City Clerk

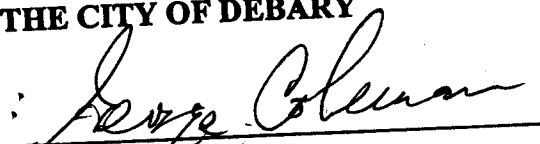
**THE CITY OF DAYTONA BEACH  
SHORES**

\_\_\_\_\_  
Greg Northrup, Mayor

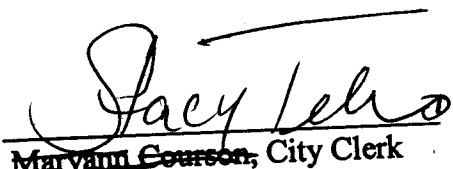
**ATTEST**

\_\_\_\_\_  
Cheri Schwab, City Clerk

**THE CITY OF DEBARY**

  
\_\_\_\_\_  
George Coleman, Mayor

**ATTEST**

  
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~~Maryann Courson~~, City Clerk

Stacy Tebo

**THE CITY OF DELAND**

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Bob Apgar, Mayor

**ATTEST**

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Julie Hennessy, City Clerk

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Dennis Mulder, Mayor

**ATTEST**

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Faith Miller, City Clerk

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Mike Thomas, Mayor

**ATTEST**

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Susan Wadsworth City Clerk

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Glenn Ritchey, Mayor

ATTEST \_\_\_\_\_  
Jennifer Thomas, City Clerk

**THE CITY OF DAYTONA BEACH  
SHORES**

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Greg Northrup, Mayor

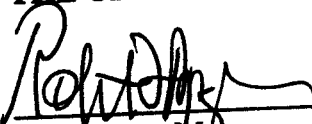
ATTEST \_\_\_\_\_  
Cheri Schwab, City Clerk

**THE CITY OF DEBARY**

\_\_\_\_\_  
George Coleman, Mayor

ATTEST \_\_\_\_\_  
Maryann Courson, City Clerk

**THE CITY OF DELAND**

  
\_\_\_\_\_  
Bob Apgar, Mayor

ATTEST Julie A. Hennessy  
Julie Hennessy, City Clerk  
9.17.07

**THE CITY OF DELTONA**

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Dennis Mulder, Mayor

ATTEST \_\_\_\_\_  
Faith Miller, City Clerk

**THE CITY OF EDGEWATER**

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ATTEST \_\_\_\_\_  
Susan Wadsworth City Clerk

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SHORES**

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**THE CITY OF DEBARY**

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George Coleman, Mayor

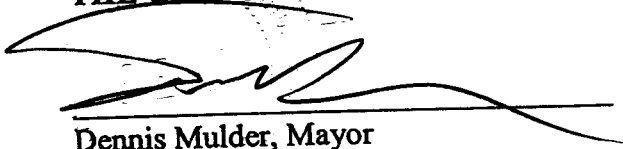
ATTEST \_\_\_\_\_  
Maryann Courson, City Clerk

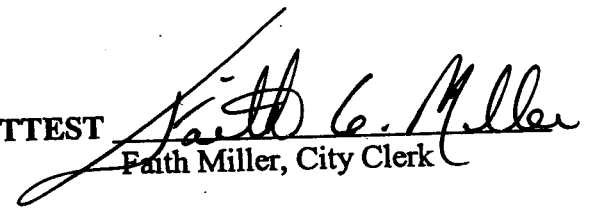
**THE CITY OF DELAND**

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Bob Apgar, Mayor

ATTEST \_\_\_\_\_  
Julie Hennessy, City Clerk

**THE CITY OF DELTONA**

  
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Dennis Mulder, Mayor

ATTEST   
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Faith Miller, City Clerk

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Mike Thomas, Mayor

ATTEST \_\_\_\_\_  
Susan Wadsworth City Clerk

**THE CITY OF DAYTONA BEACH**

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Jennifer Thomas, City Clerk

**THE CITY OF DAYTONA BEACH  
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Julie Hennessy, City Clerk

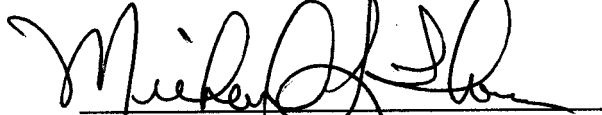
**THE CITY OF DELTONA**

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Dennis Mulder, Mayor

**ATTEST**

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Faith Miller, City Clerk

**THE CITY OF EDGEWATER**

  
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Mike Thomas, Mayor

**ATTEST**

  
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Susan Wadsworth, City Clerk

5/22/07

**THE CITY OF HOLLY HILL**

  
Roland Via, Mayor

ATTEST

  
~~Jeanne Clause~~, City Clerk  
Valerie Manning

**THE CITY OF LAKE HELEN**

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Mark Shuttleworth, Mayor

ATTEST

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Don Findell, City Administrator

**THE CITY OF NEW SMYRNA BEACH**

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James L. Vandergriff, Mayor

ATTEST

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John Hagood, City Manager

**THE CITY OF OAK HILL**

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Darry Evans, Mayor

ATTEST

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Stella MacLeod, City Clerk

**THE CITY OF ORANGE CITY**

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Albert (Ted) Erwin, Mayor

ATTEST

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Deborah Renner, City Clerk

**THE CITY OF ORMOND BEACH**

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Fred Costello, Mayor

ATTEST

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Veronica Patterson, City Clerk

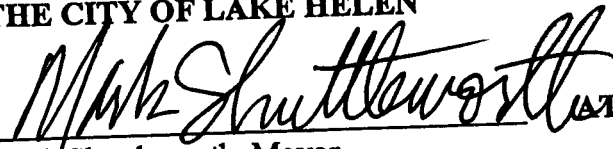
**THE CITY OF HOLLY HILL**

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Roland Via, Mayor

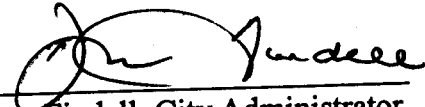
**ATTEST**

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Jeaneen Clauss, City Clerk

**THE CITY OF LAKE HELEN**

  
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Mark Shuttleworth, Mayor

**ATTEST**

  
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Don Findell, City Administrator

**THE CITY OF NEW SMYRNA BEACH**

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John Hagood, City Manager

**THE CITY OF OAK HILL**

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Stella MacLeod, City Clerk

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Veronica Patterson, City Clerk

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Jeaneen Clauss, City Clerk

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Don Findell, City Administrator

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John Hagood, City Manager

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Darryl Evans, Mayor

ATTEST

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Stella MacLeod, City Clerk

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Albert (Ted) Erwin, Mayor

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Deborah Renner, City Clerk

**THE CITY OF ORMOND BEACH**

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Fred Costello, Mayor

ATTEST

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Veronica Patterson, City Clerk

5/22/07

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**THE CITY OF HOLLY HILL**

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Roland Via, Mayor

**ATTEST**

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Jeaneen Clauss, City Clerk

**THE CITY OF LAKE HELEN**

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Mark Shuttleworth, Mayor

**ATTEST**

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Don Findell, City Administrator

**THE CITY OF NEW SMYRNA BEACH**

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James L. Vandergriff, Mayor

**ATTEST**

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John Hagood, City Manager

**THE CITY OF OAK HILL**

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Darryl Evans, Mayor

**ATTEST**

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Stella MacLeod, City Clerk

**THE CITY OF ORANGE CITY**

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Albert (Ted) Erwin, Mayor

**ATTEST**

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Deborah Renner, City Clerk

**THE CITY OF ORMOND BEACH**

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Fred Costello, Mayor

**ATTEST**

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Veronica Patterson, City Clerk

5/22/07

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**THE CITY OF HOLLY HILL**

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Roland Via, Mayor

**ATTEST**

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Jeaneen Clauss, City Clerk

**THE CITY OF LAKE HELEN**

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Mark Shuttleworth, Mayor

**ATTEST**

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Don Findell, City Administrator

**THE CITY OF NEW SMYRNA BEACH**

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James L. Vandergriff, Mayor

**ATTEST**

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John Hagood, City Manager

**THE CITY OF OAK HILL**

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Darry Evans, Mayor

**ATTEST**

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Stella MacLeod, City Clerk

**THE CITY OF ORANGE CITY**

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Robert (Ted) Erwin, Mayor  
Harley Strickland

**ATTEST**

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Deborah Renner, City Clerk

**THE CITY OF ORMOND BEACH**

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Fred Costello, Mayor

**ATTEST**

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Veronica Patterson, City Clerk

**THE CITY OF HOLLY HILL**

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Roland Via, Mayor

**ATTEST**

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Jeaneen Clauss, City Clerk

**THE CITY OF LAKE HELEN**

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Mark Shuttleworth, Mayor

**ATTEST**

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Don Findell, City Administrator

**THE CITY OF NEW SMYRNA BEACH**

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James L. Vandergriff, Mayor

**ATTEST**

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John Hagood, City Manager

**THE CITY OF OAK HILL**

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Darry Evans, Mayor

**ATTEST**

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Stella MacLeod, City Clerk

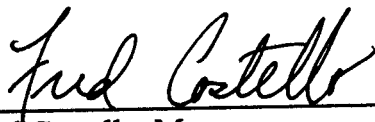
**THE CITY OF ORANGE CITY**

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Albert (Ted) Erwin, Mayor

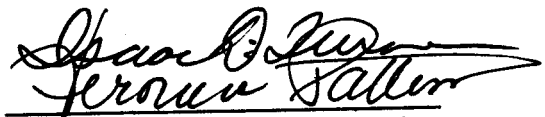
**ATTEST**

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Deborah Renner, City Clerk

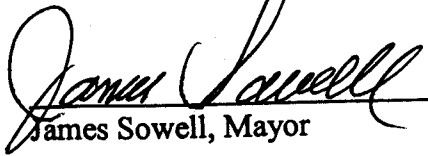
**THE CITY OF ORMOND BEACH**

  
\_\_\_\_\_  
Fred Costello, Mayor

**ATTEST**

  
\_\_\_\_\_  
Veronica Patterson, City Clerk  
Isaac D. Turner, City Manager

**THE TOWN OF PIERSON**

  
James Sowell, Mayor

ATTEST

  
~~Stacy Turner~~ City Clerk  
Debbie Bass

**THE TOWN OF PONCE INLET**

\_\_\_\_\_  
Nancy Epps, Mayor

ATTEST

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\_\_\_\_\_, \_\_\_\_\_

**THE CITY OF PORT ORANGE**

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Allen Green, Mayor

ATTEST

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Ken Parker, City Manager

**THE CITY OF SOUTH DAYTONA**

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Blaine O'Neal, Mayor

ATTEST

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Debbie Moore, Deputy City Clerk

# 4258211\_v12

**THE TOWN OF PIERSON**

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James Sowell, Mayor

**ATTEST** \_\_\_\_\_

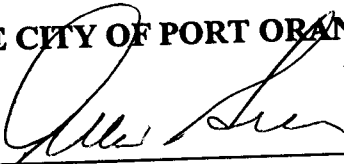
Stacy Turner, City Clerk

**THE TOWN OF PONCE INLET**

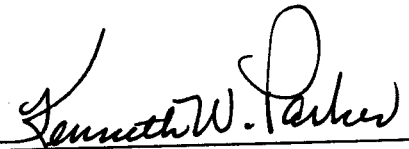
\_\_\_\_\_  
Nancy Epps, Mayor

**ATTEST** \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

**THE CITY OF PORT ORANGE**

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\_\_\_\_\_  
Allen Green, Mayor

**ATTEST** \_\_\_\_\_

  
Ken Parker, City Manager

**THE CITY OF SOUTH DAYTONA**

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Blaine O'Neal, Mayor

**ATTEST** \_\_\_\_\_

Debbie Moore, Deputy City Clerk

# 4258211\_v12

**THE TOWN OF PIERSON**

\_\_\_\_\_  
James Sowell, Mayor

**ATTEST** \_\_\_\_\_

Stacy Turner, City Clerk

**THE TOWN OF PONCE INLET**

\_\_\_\_\_  
Nancy Epps, Mayor

**ATTEST** \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

**THE CITY OF PORT ORANGE**

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Allen Green, Mayor

**ATTEST** \_\_\_\_\_

Ken Parker, City Manager

**THE CITY OF SOUTH DAYTONA**

  
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Blaine O'Neal, Mayor

**ATTEST** \_\_\_\_\_

  
\_\_\_\_\_  
Debbie Moore, Deputy City Clerk

# 4258211\_v12

5/22/07

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