REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

NOVEMBER 14, 2023

AGENDA

ALL CITIZENS DESIRING TO ADDRESS THE PORT ORANGE CITY COUNCIL DURING PUBLIC PARTICIPATION SHOULD COMPLETE THE FORM WHICH IS LOCATED ON THE STANDS OUTSIDE THE COUNCIL CHAMBERS. AFTER COMPLETING THE FORM, PRESENT IT TO THE CITY CLERK.

A. OPENING

1. Invocation by Pastor Kari Niedermaier of All Saints Lutheran Church
2. Pledge of Allegiance
3. Roll Call

B. PROCLAMATIONS

4. Small Business Saturday

C. CONSENT AGENDA

5. Public Comments on Consent Agenda Items Only
6. Agenda Approval
7. Approval of Minutes
    a. November 7, 2023 - Regular City Council Meeting
8. Bid Awards and Contract Items
    a. Ratification of Task Authorization No. 3 to Meeks Plumbing, Inc. for emergency pumping services rendered during rain event on September 30, 2023
    b. Approval of Change Order No. 1 to the Engineers Joint Contract Document (EJCDC) Agreement CA7442 (ITB 21-09) with U.S. Water Services Corporation as it relates to the Herbert and Nova Master Lift Station Improvements
    c. Approval of Extension No. 2 of the Animal Services and Trap Neuter Release (TNR) Agreement with Halifax Humane Society (HHS)
    d. Approval of Amendment No. 1 to Task Authorization No. 9 with Pegasus Engineering, LLC for grant application development for the FEMA Flood

Mitigation Assistance (FMA) Application for the Acquisition and Demolition of Flood-Prone Homes

e. Sixth Addendum to the Wholesale Service Agreement for Wastewater services to Daytona Beach Shores

9. Resolution No. 23-26 - Establishing and Adopting Water, Wastewater, Reclaimed and Other Miscellaneous Utility Fees
10. Resolution No. 23-60 - Budget Amendment - FY2022 - 2023 Final Year End True-Up
11. Resolution No. 23-61 - Capital Encumberance and Project Balance Roll forward Budget Amendment for Fiscal Year 2023-2024
12. Resolution No. 23-64 - FEMA Flood Mitigation Assistance (FMA) Application to Request Funds to Acquire and Demolish 7 Homes

D. PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

E. COUNCIL COMMENTS

13. Comments/Concerns from Council Members

F. SPECIAL REPORTS

14. Overview of Florida Fish & Wildlife Commission (FWC) Derelict Boat Removal Program

G. BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

15. Environmental Advisory Board Report

H. PUBLIC HEARING

16. First Reading - Ordinance No. 2023-11 - Amending Chapter 2 Administration - Finance - Payments for Utilities
17. First Reading - Ordinance No. 2023-16 - Land Development Code Amendment/Chapter 21 - Update to City Impact Fees (Case No. DCAM-23-0001)
18. First Reading - Ordinance No. 2023-17 - Second Amendment to Restated First Amendment to the Master Development Agreement for Nova Depot Planned Commercial Development
19. First Reading - Ordinance No. 2023-18 - Land Development Code Amendment/Chapters 2, 3, 9, and 10 - Code Clean-Up Amendment (CASE NO.: DCAM-23-0002)

I. ADDITIONAL ITEMS

20. City Attorney
21. City Manager

J. COUNCIL COMMITTEE REPORTS

22. City Council Committee Reports
    a. First Step Shelter - Mayor Donald Burnette
    b. Roundtable of Elected Officials - Mayor Donald Burnette
    c. Port Orange/South Daytona Chamber of Commerce - Mayor Donald Burnette
    d. Arthaus - Vice Mayor Reed Foley

K. ADJOURNMENT

NOTICES – PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.

FOR SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) 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 OR HEARING DATE.

HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.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 OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

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.

ANY INVOCATION THAT IS OFFERED BEFORE THE OFFICIAL START OF THE CITY COUNCIL MEETING SHALL BE THE VOLUNTARY OFFERING OF A PRIVATE PERSON, TO AND FOR THE BENEFIT OF THE CITY COUNCIL. THE VIEWS OR BELIEFS EXPRESSED BY THE INVOCATION SPEAKER HAVE NOT BEEN PREVIOUSLY REVIEWED OR APPROVED BY THE CITY COUNCIL OR THE CITY STAFF, AND THE CITY IS NOT ALLOWED BY LAW TO ENDORSE THE RELIGIOUS BELIEFS OR VIEWS OF THIS, OR ANY OTHER SPEAKER. PERSONS IN ATTENDANCE AT THE CITY COUNCIL MEETING ARE INVITED TO STAND DURING THE OPENING INVOCATION AND PLEDGE OF ALLEGIANCE. HOWEVER, SUCH INVITATION SHALL NOT BE CONSTRUED AS A DEMAND, ORDER, OR ANY OTHER TYPE OF COMMAND. NO PERSON IN ATTENDANCE AT THE MEETING SHALL BE REQUIRED TO PARTICIPATE IN ANY OPENING INVOCATION THAT IS OFFERED. A PERSON MAY EXIT THE CITY COUNCIL CHAMBERS AND RETURN UPON COMPLETION OF THE OPENING INVOCATION IF A PERSON DOES NOT WISH TO PARTICIPATE IN OR WITNESS THE OPENING INVOCATION.

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
NOVEMBER 7, 2023

THE REGULAR CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Donald O. Burnette at 6:30 p.m.

Invocation by Pastor John Mazza of Family Worship Center

Pledge of Allegiance

Roll Call	Present:	Councilman Tracy Grubbs Councilman Drew Bastian Councilman Scott Stiltner Vice Mayor Reed Foley Mayor Donald Burnette
	Also Present:	City Attorney, Matt Jones Assistant City Manager, Robin Fenwick Deputy City Clerk, Tracee Cody

RECOGNITION AND PROCLAMATIONS

4. Lung Cancer Awareness Month

Mayor Don Burnette read the proclamation for Lung Cancer Awareness Month.

5. Veterans Day

Mayor Don Burnette read the proclamation for Veterans Day.

CONSENT AGENDA

6. Public Comments on Consent Agenda Items Only

There were none.

7. Agenda Approval

There were no changes requested by Council.

Motion to approve the Agenda as presented was made by Vice Mayor Reed Foley and seconded by Councilman Scott Stiltner. Motion carried unanimously by voice vote.

8. Approval of Minutes
   a. October 17, 2023 - Regular City Council Meeting
9. Bid Awards and Contract Items
   a. Approval of Shoppes at Summer Trees Amended and Restated Proportionate Fair-Share Agreement for the Shoppes at Summer Trees Site Plan (Case No. SPIN-23-0009)
10. Resolution No. 23-54- Approval of Grant Agreement for $92,000 from Florida Inland Navigation District for Phase I Design of the Day Dock at Riverwalk Park
11. Resolution No. 23-55 - Acceptance of Deed of Dedication for Public Purposes - South Side of 662 Herbert Street
12. Resolution No. 23-56 - Termination of the City's Agreement with Florida PACE Funding Agency (FPFA)
13. Resolution No. 23-57 - Accepting $74,479 for 2023-2024 Victims of Crime Act (VOCA) Grant
14. Resolution No. 23-58 - Accepting the grant award from the U.S. Department of Justice FY 23 Patrick Leahy Bulletproof Vest Partnership Project in the amount of $18,125
15. Resolution No. 23-63 - Master Lease Purchase Agreement for Public Safety Equipment with TD Equipment Finance, Inc.
16. City Attorney's Report on Special Legal Counsel for FY2024

Motion to approve the Consent Agenda as presented was made by Vice Mayor Reed Foley and seconded by Councilman Scott Stiltner. Motion carried unanimously by roll call vote.

PUBLIC PARTICIPATION (Agenda)

17. Cops for Christmas - Officer Wayne Jean

Officer Wayne Jean and Odetta Horruitiner, Victim Advocate Coordinator, discussed the details of this year's Cops for Christmas event put on by the Port Orange Police Department, Victim's Advocate Department, and Spouses Backing the Blue.

PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

Michael Agrl, Vice Chair of Port Orange/South Daytona Chamber of Commerce, thanked Council for their support.

Robert Reinhagen, resident, commented on proposed changes to the Land Development Code presented at the October Planning Commission in regard to the minor engineering permit definition and wetlands alteration permit.

COUNCIL COMMENTS

18. Comments/Concerns from Council Members

Councilman Tracy Grubbs spoke about construction near Sugar Forest Subdivision filling in a canal on Jackson Street and explained the elevation plan and the intent of water flow. He also provided an update on the docks at Memorial Park and upcoming sidewalk construction in Town Park and Town West Blvd.

Councilman Scott Stiltner mentioned not all sidewalks are city-owned, as some are private and owned by Homeowners Associations. He also read James "Pops" Richard's obituary into the record.

Vice Mayor Reed Foley and Mayor Don Burnette thanked the Parks & Recreation staff for putting together the Halloween Fest.

PUBLIC HEARING

19. Appeal of Planning Commission Denial of Variances for 917 Boyte Street

Motion to approve the variances requested for 917 Boyte Street was made by Vice Mayor Reed Foley and seconded by Councilman Drew Bastian.

Matt Jones, City Attorney, explained the appeal process and specified the criteria for Council's consideration to either reverse or uphold the Planning Commission's decision, as no new evidence could be heard.

Tim Burman, Community Development Director, provided a recap of the case from the Planning Commission meeting and answered questions from Council.

Dexter Copp, Applicant, and his daughter Meghan Kaczynski stated their reasoning for the request just as they did to the Planning Commissioners.

Motion carried 4-1 with Councilman Scott Stiltner voting no.

ADDITIONAL ITEMS

20. City Attorney

There was nothing further.

21. City Manager

Robin Fenwick, Assistant City Manager, stated the demolition of the former Arthaus building is to begin on Monday, November 13.

COUNCIL COMMITTEE REPORTS

22. City Council Committee Reports

    a. River to Sea TPO - Vice Mayor Reed Foley

Vice Mayor Reed Foley had nothing to report.

ADJOURNMENT – 7:36 p.m.

_____
Mayor Donald O. Burnette

Attest:

_____
Robin Fenwick, MMC
City Clerk

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (C8a) Ratification of Task Authorization No. 3 to Meeks Plumbing, Inc. for emergency pumping services rendered during rain event on September 30, 2023

DEPARTMENT: Public Utilities

GOAL: 1 - Public Safety

RECOMMENDED MOTION: Move to ratify Emergency Task Authorization No. 3 to the Standard Contract for Services CA7245 with Meeks Plumbing, Inc. in the amount of $51,940.00.

SUMMARY: Beginning on September 29 through October 1, 2023, the Port Orange area received approximately 6” inches of recorded rainfall based on measurements at the City EOC weather station. The heavy rainfall, coupled with unusually high tides, created some flooding in the area northeast of Herbert Street. City staff were notified the lift station at Herbert & Nova was struggling to pump sewage due to the excessive flow rate entering the station. Staff arrived onsite and began to pull sewage from overflowing manholes and noticed residents had removed manhole covers to relieve flooding in the streets. Because of the tampering with manhole covers, the sanitary system was inundated with runoff and the lift station was not able to keep up with the inflow, which resulted in sewer overflows in the area. At approximately 1:00 pm on September 30, Meeks Plumbing, Inc. was called to send pump trucks to help alleviate the sewer overflows. Meeks Plumbing sent five tanker trucks that pulled sewage loads from September 30 until October 2. Approximately 1 million gallons of sewage was hauled by Meeks Plumbing over the 36 hours they were onsite. Meeks Plumbing performed work under an emergency Task Authorization and the City's code requires ratification by the City Council.

PRESENTER: Steve Parnell

ATTACHMENTS:

1.	Executed Meeks Plumbing,Inc Task Authorization No. 3	Executed Meeks Plumbing,Inc Task Authorization No. 3 .pdf
2.	Meeks Invoice 9-30-23	Meeks Invoice 9-30-23.pdf
3.	Meeks Invoice 10-01-23	Meeks Invoice 10-01-23.pdf
4.	Meeks Ad Hoc Payments for Emergency Work	Meeks Ad Hoc Payments for Emergency Work.pdf

Julia Wiggins	Created/Initiated - 10/23/2023
Kelly Klausky	Approved - 10/23/2023
Steve Parnell	Approved - 10/23/2023
John McKinney	Approved - 10/25/2023
Matthew Jones	Approved - 11/1/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

TASK AUTHORIZATION NO. 3
Standard Contract for Services dated July 28, 2020
Between the City of Port Orange, Florida and Meeks Plumbing, Inc.

THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **MEEKS PLUMBING, INC.**, a Florida corporation with its principal place of business at 5555 US Highway 1, Suite 1, Vero Beach, Florida 32967 ("Contractor"), and hereinafter collectively referred to as the "Parties," and is to that certain Standard Contract for Services dated July 28, 2020, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.

2. In addition to all other terms and conditions contained in the Contract, Contractor shall provide services relating to emergency pumping sewer service for the Darning event on 9/30/23 and 10/1/23, and as more particularly described in Contractor invoices, attached hereto and incorporated herein as Task Authorization Exhibit "1."

3. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "1" attached hereto and made a part hereof for all purposes, subject to a limit not to exceed Fifty-One Thousand Nine Hundred Forty and 00/100 Dollars ($51,940.00). All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

4. This Task Authorization may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Task Authorization shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Task Authorization.

IN WITNESS WHEREOF, the Parties have made and executed this Task Authorization for the purposes herein expressed on the dates set forth below.

Witnesses:

MEEKS PLUMBING, INC.

Printed Name: Ashley Fugate

By: _____
Clayton Kyle Meeks, President

Printed Name: Trisha Chung

Date: Oct 9th 2023

CITY OF PORT ORANGE

By:_____
Wayne Clark, City Manager

Date: 10/19/2023

ATTEST:

By:_____
Robin L. Fenwick, MMC, City Clerk

Date: 10/19/2023

[CA 7245]

EXHIBIT "1"

Contractor's Quote

Consisting of 2 Pages

MEEKS PLUMBING, INC.

CFC024535
5555 US HIGHWAY 1
SUITE 1
VERO BEACH, FL 32967
(772) 569-2285

"If It Leaks, Call Meeks"

Invoice

Invoice Number: 0217962-IN
Invoice Date: 10/2/2023

Site ID: 2016010234

Salesperson: HOUSE
Customer Number: 00-CITORG

BILL TO:	SERVICE ADDRESS
CITY OF PORT ORANGE ATTN: ACCOUNTS PAYABLE PO BOX 291759 PORT ORANGE, FL 32129	CITY OF PORT ORANGE 1000 CITY CENTER CIRCLE PORT ORANGE, FL 32129

CUSTOMER P.O.	PHONE NUMBER	SERVICE DATE	TERMS
#20-08	(386) 506-5500	10/2/2023	DUE ON RECEIPT

Item Code			UNIT	QUANTITY	PRICE	AMOUNT
SERVICE BILLING AUTHORIZED FOR USE OF PUMP TRUCK SERVICES TO RUN BYPASS. JOB COMPLETE.						
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	18.00	265.00	4,770.00
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	18.00	265.00	4,770.00
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	18.00	265.00	4,770.00
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	11.00	265.00	2,915.00
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	11.00	265.00	2,915.00

THANK YOU FOR YOUR BUSINESS!

Net Invoice:	20,140.00
Less Discount:	0.00
Freight:	0.00
Sales Tax:	0.00
Invoice Total:	20,140.00

MEEKS PLUMBING, INC.

CFC024535
5555 US HIGHWAY 1
SUITE 1
VERO BEACH, FL 32967
(772) 569-2285

"If It Leaks, Call Meeks"

Invoice

Invoice Number: 0217958-IN
Invoice Date: 10/2/2023

Site ID: 2016010234

Salesperson: HOUSE
Customer Number: 00-CITORG

BILL TO:	SERVICE ADDRESS
CITY OF PORT ORANGE ATTN: ACCOUNTS PAYABLE PO BOX 291759 PORT ORANGE, FL 32129	CITY OF PORT ORANGE 1000 CITY CENTER CIRCLE PORT ORANGE, FL 32129

CUSTOMER P.O.	PHONE NUMBER	SERVICE DATE	TERMS
#20-08	(386) 506-5500	9/30/2023	DUE ON RECEIPT

Item Code			UNIT	QUANTITY	PRICE	AMOUNT
SERVICE BILLING AUTHORIZED FOR USE OF EMERGENCY PUMP TRUCK SERVICES TO RUN BYPASS. JOB COMPLETE.						
/GTP-002			EACH	24.00	265.00	6,360.00
PER PUMP TRUCK PER HOUR 9/30/23						
/GTP-002			EACH	24.00	265.00	6,360.00
PER PUMP TRUCK PER HOUR 9/30/23						
/GTP-002			EACH	24.00	265.00	6,360.00
PER PUMP TRUCK PER HOUR 9/30/23						
/GTP-002			EACH	24.00	265.00	6,360.00
PER PUMP TRUCK PER HOUR 9/30/23						
/GTP-002			EACH	24.00	265.00	6,360.00
PER PUMP TRUCK PER HOUR 9/30/23						

THANK YOU FOR YOUR BUSINESS!

Net Invoice:	31,800.00
Less Discount:	0.00
Freight:	0.00
Sales Tax:	0.00
Invoice Total:	31,800.00

MEEKS PLUMBING, INC.

CFC024535

5555 US HIGHWAY 1
SUITE 1
VERO BEACH, FL 32967
(772) 569-2285

Invoice

Invoice Number: 0217962-IN
Invoice Date: 10/2/2023

Site ID: 2016010234

"If It Leaks, Call Meeks"

Salesperson: HOUSE
Customer Number: 00-CITORG

BILL TO:	SERVICE ADDRESS
CITY OF PORT ORANGE ATTN: ACCOUNTS PAYABLE PO BOX 291759 PORT ORANGE, FL 32129	CITY OF PORT ORANGE 1000 CITY CENTER CIRCLE PORT ORANGE, FL 32129

CUSTOMER P.O.	PHONE NUMBER	SERVICE DATE	TERMS
#20-08	(386) 506-5500	10/2/2023	DUE ON RECEIPT

Item Code			UNIT	QUANTITY	PRICE	AMOUNT
SERVICE BILLING AUTHORIZED FOR USE OF PUMP TRUCK SERVICES TO RUN BYPASS. JOB COMPLETE.						
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	18.00	265.00	4,770.00
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	18.00	265.00	4,770.00
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	18.00	265.00	4,770.00
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	11.00	265.00	2,915.00
/GTP-002 PER PUMP TRUCK PER HOUR 10/01/23			EACH	11.00	265.00	2,915.00

THANK YOU FOR YOUR BUSINESS!

Net Invoice:	20,140.00
Less Discount:	0.00
Freight:	0.00
Sales Tax:	0.00
Invoice Total:	20,140.00

MEEKS PLUMBING, INC.

CFC024535

5555 US HIGHWAY 1
SUITE 1
VERO BEACH, FL 32967
(772) 569-2285

Invoice

Invoice Number: 0217958-IN
Invoice Date: 10/2/2023

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CUSTOMER P.O.	PHONE NUMBER	SERVICE DATE	TERMS
#20-08	(386) 506-5500	9/30/2023	DUE ON RECEIPT

Item Code			UNIT	QUANTITY	PRICE	AMOUNT
SERVICE BILLING AUTHORIZED FOR USE OF EMERGENCY PUMP TRUCK SERVICES TO RUN BYPASS. JOB COMPLETE.						
/GTP-002 PER PUMP TRUCK PER HOUR 9/30/23			EACH	24.00	265.00	6,360.00
/GTP-002 PER PUMP TRUCK PER HOUR 9/30/23			EACH	24.00	265.00	6,360.00
/GTP-002 PER PUMP TRUCK PER HOUR 9/30/23			EACH	24.00	265.00	6,360.00
/GTP-002 PER PUMP TRUCK PER HOUR 9/30/23			EACH	24.00	265.00	6,360.00
/GTP-002 PER PUMP TRUCK PER HOUR 9/30/23			EACH	24.00	265.00	6,360.00

THANK YOU FOR YOUR BUSINESS!

Net Invoice:	31,800.00
Less Discount:	0.00
Freight:	0.00
Sales Tax:	0.00
Invoice Total:	31,800.00

View Ad Hoc Payment

Ad Hoc Payment	Ad Hoc Payment: Meeks Plumbing, Inc. - 10/06/2023
Status	Complete

Ad Hoc Payment Information

Company	City of Port Orange
Bank Account	Working Account (AP)
Payee	Meeks Plumbing, Inc.
Currency	USD
Eliminate Foreign Exchange Gain or Loss	No
Default Tax Code	
Payment Date	10/06/2023
Payment Type	Check
Ship-To Address	
Reconciliation Status	Unreconciled

Payment Details

Payment Printing Run	Ad Hoc Payment - FY24 AP AD HOC PAYMENTS - 10/12/2023 12:50 PM
Part of Settlement Run	SR-001819
Part of Group	Ad Hoc Payment(Check) for Working Account (AP)
Transaction Reference	217014
Total Payment Amount	20,140.00
Memo	217962IN
Addenda	
External Reference	
Tax Authority Form Type	
TIN Type	1 - EIN
Tax ID	******1660
Tax Payment	No

Lines

Company	Item	Item Description	Billable	Spend Category	Tax	Tax Recoverability	Tax Option	Quant
City of Port Orange		EMERGENCY PUMP TRUCK SERVICES		Other Contracted Services	**Tax Applicability** **Tax Code**	Tax Recoverability	Tax Option	

Payee Address

Effective Date	01/01/1900

Country	United States of America
Enter Western Script	Yes
Country Address Format Component Type (Derived) [Singular]	Address Line 1
Address Value	5555 Us Hwy 1 Suite 1
Country Address Format Component Type (Derived) [Singular]	Address Line 2
Address Value	
Country Address Format Component Type (Derived) [Singular]	City
Address Value	Vero Beach
Country Address Format Component Type (Derived) [Singular]	State
Location Context Address Value with prompt	Florida
Country Address Format Component Type (Derived) [Singular]	Postal Code
Address Value	32967
Country Address Format Component Type (Derived) [Singular]	County
Address Value	

Usage

Type	Business
Primary	Yes
Use For	Billing Remit To
Visibility	Public
Comments	

Alternate Names

Primary Name

Primary Name	Meeks Plumbing, Inc.
Usage	1099 Recipient Alternate Supplier Connection Connection Integration Name Connection Purchase Order Name Doing Business As EDI Integration Name Integration Name Matching Purchase Order Name Reference Remit To Addressee 1 Remit To Advice Name

Alternate Names

View Ad Hoc Payment

Name	Usage
Meeks Plumbing, Inc.	Remit To Payee

Attachments

Attachment
MEEKS 217962IN FY24.pdf

Business Process

Process	Step	Status	Completed On	Due Date
Ad Hoc Payment Event	Ad Hoc Payment Event	Step Completed	10/06/2023 02:24:24 PM	10/10/2023
Ad Hoc Payment Event	Review Ad Hoc Payment	Not Required		10/10/2023
Ad Hoc Payment Event	To Do: Initiate Wire at Bank	Not Required		10/10/2023
Ad Hoc Payment Event	Approval by Finance Administrator	Approved	10/06/2023 03:26:40 PM	10/08/2023

View Ad Hoc Payment

Ad Hoc Payment	Ad Hoc Payment: Meeks Plumbing, Inc. - 10/06/2023
Status	Complete

Ad Hoc Payment Information

Company	City of Port Orange
Bank Account	Working Account (AP)
Payee	Meeks Plumbing, Inc.
Currency	USD
Eliminate Foreign Exchange Gain or Loss	No
Default Tax Code	
Payment Date	10/06/2023
Payment Type	Check
Ship-To Address	
Reconciliation Status	Unreconciled

Payment Details

Payment Printing Run	Ad Hoc Payment - FY23 AP AD HOC PAYMENTS - 10/12/2023 06:06 AM
Part of Settlement Run	SR-001818
Part of Group	Ad Hoc Payment(Check) for Working Account (AP)
Transaction Reference	217003
Total Payment Amount	31,800.00
Memo	217958IN
Addenda	
External Reference	
Tax Authority Form Type	
TIN Type	1 - EIN
Tax ID	******1660
Tax Payment	No

Lines

Company	Item	Item Description	Billable	Spend Category	Tax	Tax Recoverability	Tax Option	Quant
City of Port Orange		EMERGENCY PUMP TRUCK SERVICES		Other Contracted Services	**Tax Applicability** **Tax Code**	Tax Recoverability	Tax Option	

Payee Address

Effective Date	01/01/1900

Country	United States of America
Enter Western Script	Yes
Country Address Format Component Type (Derived) [Singular]	Address Line 1
Address Value	5555 Us Hwy 1 Suite 1
Country Address Format Component Type (Derived) [Singular]	Address Line 2
Address Value	
Country Address Format Component Type (Derived) [Singular]	City
Address Value	Vero Beach
Country Address Format Component Type (Derived) [Singular]	State
Location Context Address Value with prompt	Florida
Country Address Format Component Type (Derived) [Singular]	Postal Code
Address Value	32967
Country Address Format Component Type (Derived) [Singular]	County
Address Value	

Usage

Type	Business
Primary	Yes
Use For	Billing Remit To
Visibility	Public
Comments	

Alternate Names

Primary Name

Primary Name	Meeks Plumbing, Inc.
Usage	1099 Recipient Alternate Supplier Connection Connection Integration Name Connection Purchase Order Name Doing Business As EDI Integration Name Integration Name Matching Purchase Order Name Reference Remit To Addressee 1 Remit To Advice Name

Alternate Names

View Ad Hoc Payment

Name	Usage
Meeks Plumbing, Inc.	Remit To Payee

Attachments

Attachment
MEEKS PLUMBING 217958IN FY23.pdf

Business Process

Process	Step	Status	Completed On	Due Date
Ad Hoc Payment Event	Ad Hoc Payment Event	Step Completed	10/06/2023 02:20:23 PM	10/10/2023
Ad Hoc Payment Event	Review Ad Hoc Payment	Not Required		10/10/2023
Ad Hoc Payment Event	To Do: Initiate Wire at Bank	Not Required		10/10/2023
Ad Hoc Payment Event	Approval by Finance Administrator	Approved	10/06/2023 03:29:19 PM	10/08/2023

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (C8b) Approval of Change Order No. 1 to the Engineers Joint Contract Document (EJCDC) Agreement CA7442 (ITB 21-09) with U.S. Water Services Corporation as it relates to the Herbert and Nova Master Lift Station Improvements

DEPARTMENT: Engineering

GOAL: 2 - Infrastructure

RECOMMENDED MOTION: Move to approve Change Order No. 1 to the EJCDC Agreement CA7442 (ITB 21-09) with U.S Water Services Corporation as it relates to the Herbert and Nova Master Lift Station Improvements.

SUMMARY: The Engineering Department is requesting approval for Change Order No. 1 in the amount of $173,744.00 to the EJCDC Agreement CA7442 with U.S Water Services Corporation concerning the Herbert & Nova Master Lift Station Improvements (ITB 121-09). The change order is necessary due to unforeseen circumstances and additional work requirements that were not part of the original plans.

The change order includes the following:

- Decorative Wall: The original design included the installation of a 6-foot decorative wall surrounding the lift station to screen the equipment from the Right-of-Way. When the contractor submitted the building permit application, it was determined that an 8-foot wall would be necessary to adequately screen the equipment due to the height of the odor control unit. This required increasing the size of the footer, additional CMU blocks, and additional stucco.

- Top Slab Modification: Based on a review of the original drawings from 2003 during the design of the improvements, it appeared that the existing top slab was a precast top that could be removed without cutting the wet well. However, during construction, it was discovered that the existing top slab was cast in place, which required cutting the structure to remove the top section of the existing wet well.

- Isolation Valve Installation: An isolation valve needs to be installed to connect to the existing force main. The original design assumed that the new piping from the lift station could be connected to the existing force main due to the assumed lack of back pressure in the main, because the force main discharges directly to the waste water treatment plant and is an open discharge. However, due to the unexpected pressure on the existing force main, an Inserta-Valve was needed to be installed to isolate the existing force main to allow the connection of the new piping.

- FPL Safety Precaution: An additional electrical disconnect was required before the electric meter to comply with updated FPL safety standards. During the time between when the project was designed in 2019 and construction, FPL instituted more stringent safety standards than the electrical building code requires.

- Removal and Replacement of Wet Well Liner: The existing wet well liner had to be removed, and upon draining and cleaning, it was found to be in worse condition than initially assumed during the design phase. A new wet well liner (Raven 405) was installed.

- Additional 8 weeks of by-pass pumping Operation: The bypass pumping operation needed to be extended to complete the demolition and installation of the new wet well liner.

Change Order No. 1 will also provide an additional 30 days to the final completion date to allow time to process the final close out. This will move the final completion date from February 6, 2024 to March 7, 2024.

The change order will require additional funds in the amount of $173,744 which will be included as part of the first quarter budget amendment requested by Finance.

Original Contract Amount - $997,536.00
Change Order 1 - $173,744.00
Total with CO1 - $1,171,280.00 (17.4 % increase)

PRESENTER: Junos Reed

ATTACHMENTS:

1.	US Water Services Corporation Change Order No 1 to EJCDC Herbert and Nova Master Lift Station Rehabilitation	US Water Services Corporation Change Order No 1 to EJCDC Herbert and Nova Master Lift Station Rehabilitation.pdf
2.	City of Port Orange Herbert and Nova MLS Rehab- Letter for CO 9-25-2023	City of Port Orange Herbert and Nova MLS Rehab- Letter for CO 9-25-2023.pdf
3.	Executed - EJCDC Agreement CA7442	Executed - EJCDC Agreement CA7442.pdf
4.	Bond	Bond.pdf
5.	NTP	NTP.pdf
6.	US Water Serv (ITB-21-09 Herbert & Nova MLS Rehab) 11-30-22	US Water Serv (ITB-21-09 Herbert & Nova MLS Rehab) 11-30-22.pdf
7.	US Water Serv Herbert and Nova MLS Rehab #21-09_WC COI 22-23	US Water Serv Herbert and Nova MLS Rehab #21-09_WC COI 22-23.pdf

Julia Wiggins	Created/Initiated - 10/16/2023
Richard Colby	Approved - 10/16/2023
Junos Reed	Approved - 10/18/2023

John McKinney	Approved - 10/18/2023
Matthew Jones	Approved - 10/25/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

CHANGE ORDER NO. 1
To the EJCDC Agreement dated June 15, 2021
U.S. WATER SERVICES CORPORATION,
Contractor

Project: ITB 21-09 Herbert & Nova Master Lift Station Rehabilitation

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE:	**CHANGE IN CONTRACT TIMES**:
Original Contract Price: $997,536.00	Original Contract Times: NTP Effective Date: March 13, 2023 Substantial Completion: 300 days (January 7, 2024) Final Completion: 330 days (February 6, 2024)
Net changes from previous Change Order: N/A	Changes in contract time from previous Change Orders: N/A
Contract Price prior to this Change Order: $997,536.00	Contract Completion Date prior to this Change Order: February 6, 2024
Net Increase (decrease) of this Change Order: No. 1 $179,312.25	Changes in contract time requested this Change Order: No. 1 30 days
Contract Price with all approved Change Orders: $1,176,848.25	Contract Times with all approved Change Orders: Final Completion: March 7, 2024

CHANGES ORDERED:

I. GENERAL: This Change Order is necessary to cover changes in the work to be performed under the EJCDC Agreement entered into by and between the parties on June 15, 2021.

II. REQUIRED CHANGES: Change Order is necessary to cover the cost of various field change orders necessary to complete project and extend the final completion date by thirty (30) days. No goods shall be delivered, nor services commenced hereunder until this Change Order has been fully executed by all parties.

III. JUSTIFICATION: Change Order No 1 is necessary to cover the cost of the additional decorative wall, the removal of the top section of the exiting Wet Well, the purchase and installation of the isolation valve and the additional disconnect prior to the Electrical Meter and purchase of the disconnect. These items were not part of the original design.

IV. PAYMENT: Payment for this Change Order shall be made in accordance with the terms of the EJCDC Agreement subject to a limit up to but not to exceed $179,312.25 for a revised contract not to exceed $1,176,848.25. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Florida Statutes Section 218.70 through 218.79, as amended.

V. This Change Order may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Change Order shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Change Order.

Acknowledgments:

The aforementioned change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order;

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein;

The prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under competitive bidding; and,

The change in price and/or delivery date described is considered to be fair and reasonable and has been mutually agreed upon in full agreement and final settlement of all claims arising out of this modification including all claims for delays and disruptions resulting from, caused by, or incident to such modifications and change orders.

RECOMMENDED BY:
RICHARD COLBY
Department Project Manager

By:_____
Richard Colby, Construction Manager

Date Signed:_____

ACCEPTED BY:
Gary Deremer
US Water Services Corporation

By:_____
Gary Deremer, CEO

Date Signed:_____

RECOMMENDED BY:
N/A
City's Representative

By:_____
Printed Name:_____
Title:_____

Date Signed:_____

RECOMMENDED BY:
N/A
Engineer of Record

By:_____
Printed Name:_____
Title:_____

Date Signed:_____

APPROVED BY:
CITY OF PORT ORANGE
Department Head

By:_____
Junos Reed, City Engineer

Date Signed:_____

City Manager

By:_____
Wayne Clark, City Manager

Date Signed:_____

<u>If Council approval is required:</u>

By:_____
Donald O. Burnette, Mayor

Date Signed:_____

Affirmed:

_____
Robin L. Fenwick, MMC, City Clerk

Date Signed:_____

Water and Wastewater Utility Operations, Maintenance, Engineering, Management

Re: Herbert and Nova LS Improvements and Upgrades Project CO # 001

September 25, 2023

To The City of Port Orange (and corresponding engineers),

Due to unforeseen circumstances US Water has encountered a few items that will require an additional change order. The following items: the decorative wall surrounding the lift station, the top slab is a casted in place unit that will require cutting the structure to remove top section, the existing force main has no means of isolation this will require installation of an isolation valve, FPL safety precaution requires an additional disconnect prior to the Meter, removal of existing liner, repairing the walls and coating the walls with Raven 405 and extending by-passing. As these things were not on the original plan set, we are requesting a change order to cover the amount of additional costs for materials and labor required to meet the changed plans.

The amount will cover the cost of the additional decorative wall, the removal of the top section of the existing Wet Well, the purchase and installation of the isolation valve and the additional disconnect prior to the Electrical Meter and purchase of the disconnect.

-Additional footer (including rebar and extra day equipment)	$ 4,697.00
-Additional CMU's and mortar (including bond beam, rebar and additional grout fill above and below grade)	$ 1,695.00
-Additional stucco and color finish	$ 2,880.00
-Additional labor and project management	$ 6,471.00
-Inserta Valve and associated Labor -	$ 26,710.00
-Top Slab Cutting and associated Labor -	$ 5,743.25
-Additional Electrical Meter Disconnect and associated Labor -	$ 3,745.00
Equipment and Labor for Removal of Existing Liner -Estimated 1,662 SQ FT @ $18.50=	$ 30,747.00
-Coating Interior of Existing Lift Station Estimated 1,662 SQ FT @ $27.00=	$ 44,874.00
-Additional 8 weeks of By-Pass Pumping Equipment to include: Fuel and additional Labor	$ 51,750.00
Total:	$ 179,312.25

Please let us know if you need an itemized breakdown of this amount or if there is

4939 Cross Bayou Blvd. ≈ New Port Richey ≈ Florida 34652

Ph: 727-848-8292 ≈ Fx: 727-848-7701 ≈ Toll Free: 866-753-8292

anything in this scope that we need to add.

Thank you for your time and consideration of this matter.

Sincerely,

Brian Hutchinson

U.S. Water Services Corporation

CA

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between **City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129** ("Owner") and **U.S. Water Services Corporation, 4939 Cross Bayou Boulevard, New Port Richey, FL34652** ("Contractor").

The Effective Date of this Agreement shall be June 15, 2021 (If no date is specified then the Effective Date shall be the date on which the Agreement is signed by the last of the two parties.)

Owner and Contractor hereby agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Demolition of the existing building and generator, installation of a new generator and automatic transfer switch, wetwell coating system, top slab, piping, vales, valve vault and decorative wall.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

ITB 21-09 Herbert Street and Nova Road Master Lift Station Rehabilitation

ARTICLE 3 – ENGINEER

3.01 The part of the Project that pertains to the Work has been designed by the Project Engineer, Kevin A. Lee, P.E. ("Civil Engineer"), and Keff Kurella, P.E. ("Electrical Engineer"). Brad Blais, P.E. shall act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Substantial Completion and Final Completion as stated in the Contract Documents, particularly Paragraph 4.02 below, are of the essence of the Contract.

B. All time limits for Milestone dates set forth in the Contract Documents are of the essence of the Contract.

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CA7442

4.02 *Days to Achieve Substantial Completion and Final Completion*

A. Unless as otherwise modified in a Notice to Proceed issued after the Effective Date of the Agreement or an allowable extension of time in accordance with Paragraph 12.02 of the General Conditions, the Work shall be substantially completed within 330 days after the Effective Date of the Agreement.

B. Unless as otherwise modified in a Notice to Proceed issued after the Effective Date of the Agreement or an allowable extension of time in accordance with Paragraph 12.02 of the General Conditions, the Work shall be finally completed in accordance with Paragraph 14.06 of the General Conditions within 365 days after the Effective Date of the Agreement.

C. If a Notice to Proceed is issued more than 60 days from the Effective Date of this Agreement, then the dates for Substantial Completion and the Final Completion shall be extended by the same number of days. (For example, if the Notice to Proceed is issued 63 days after the Effective Date of the Agreement, then the Substantial Completion and Final Completion dates shall be extended by 63 days.)

4.03 *Liquidated Damages*

A. Contractor and Owner agree and recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss that is not readily ascertainable as of the Effective Date of this Agreement if the Work is delayed and not Substantially Completed within the time period specified in Paragraph 4.02 above, plus any allowable extension of time in accordance with Paragraph 12.02 of the General Conditions. Contractor agrees and recognizes that any delay to Substantial Completion shall constitute a material breach. Accordingly, Owner and Contractor agree that as liquidated damages for delay, Contractor shall pay Owner $0.00 for each day that expires after the date the Work is required to be Substantially Completed until the Contractor achieves Substantial Completion with the Work. Contractor and Owner agree and recognize that the liquidated damages set forth herein shall not be treated as a penalty and are just damages that are proportionate to any damages that might reasonably be expected to follow from a delay to Substantial Completion.

B. Owner may withhold Contractor's final payment in order offset the liquidated damages that Contractor owes Owner. Owner may also withhold progress payments if Owner reasonably believes that Contractor's final payment will not sufficiency cover the liquidated damages that Contractor owes Owner.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

A. For all Work other than Unit Price Work, a lump sum of: $N/A

Any allowances specifically identified and called for in the Contract Documents are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

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B. For all Unit Price Work in accordance with Paragraph 11.03 of the General Conditions, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item:

UNIT PRICE WORK

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
			See Attachments		

Total of all Bid Prices (Unit Price Work) $997,536.00

The Bid Unit Prices set forth above are guaranteed prices. Although the Estimated Quantities are estimates and may increase or decrease based on determinations of Engineer, Contractor agrees and understands that the Bid Unit Prices shall remain the same irrespective of the quantities. Contractor understands that in agreeing to any Bid Unit Price it is agreeing to bear the risk associated with any material price increase or escalation. Owner agrees and understands that in agreeing to any Bid Unit Price it is agreeing to bear the risk associated with any material price decrease or reduction.

C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Progress Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions.

6.02 *Progress Payments; Retainage*

A. Progress payments shall be made on account of the Contract Price on the basis of Contractor's Applications for Payment during performance of the Work in accordance with Paragraph 14.02 of the General Conditions. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed). Progress payments will be made in an amount equal to the percentage of the Work completed in accordance with the Schedule of Values, less the aggregate of payments previously made, less the retainage, and less such amounts as Engineer may determine Owner may withhold, including, but not limited to, liquidated damages.

B. Owner shall withhold 5 percent of each progress payment as retainage until 100 percent completion.

6.03 *Final Payment*

A. Final Payment inclusive of retainage shall be made to Contractor in accordance with Paragraph 14.07 of the General Conditions.

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ARTICLE 7 – INTEREST

7.01 All monies not paid in strict accordance with Florida Statute §218.735 shall bear interest as provided for therein.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Agreement and in determining the Contract Price, Contractor makes the following representations:

A. Contractor has carefully examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data." Contractor's receipt and study of such reports shall not relieve it of visiting the Site and becoming familiar with and satisfied with the Site conditions that may affect cost, progress, and performance of the Work.

E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

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H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 10, inclusive).
2. Combination Payment and Performance Bond (pages 1 to 3, inclusive).
3. General Conditions (pages 1 to 68, inclusive).
4. Supplementary Conditions (pages 1 to 7, inclusive).
5. Technical Specifications as listed in ITB 21-09 Herbert Street and Nova Road Lift Station Improvements and Upgrades, as identified in "Section 3 - Scope of Work" (pages 1 to 391, not attached, on file with Junos Reed, P.E., City Engineering and Construction Manager).
6. Bid Set Drawings as listed in ITB 21-09 Herbert Street and Nova Road Lift Station Improvements and Upgrades (pages 1 to 19, not attached, on file with Junos Reed, P.E., City Engineering and Construction Manager).
7. Addendum No. 1 (pages 1 to 14, inclusive).
8. Addendum No. 2 (pages 1 to 2, inclusive).
9. Addendum No. 3 (page 1, inclusive).
10. Addendum No. 4 (page 1, inclusive).
11. Exhibits to this Agreement (enumerated as follows):
    a. Exhibit No. 1 Contractor's Bid Schedule of Unit Prices (page 1, inclusive).
    b. Documentation submitted by Contractor prior to Notice of Award (N/A).
        1. Affidavit Regarding Workers' Compensation (page 1, inclusive).
        2. Leased Employee Affidavit Exhibit (page 1, inclusive).
    c. Exhibit No. 2 Contractor's Proposal (pages 1 to 49, inclusive).

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d. Composite Exhibit No. 3 City's Invitation to Bid Request No. 21-09 (pages 1 to 558, not attached, on file with City Clerk).

12. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

a. Notice to Proceed (pages _____ to _____, inclusive).

b. Work Change Directives.

c. Change Orders.

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions and parts shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract

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Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision or part that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

B. Contractor certifies that in the event a Lien is recorded on the Project by any person or entity providing labor, services, or materials with respect to any portion of the Work, it will immediately transfer such lien to its payment bond or take other appropriate action to immediately remove the encumbrance.

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10.06 *No-Damage-for-Delay*

A. Contractor shall not be entitled to any damages (including, without limitation, expenses, costs, fees, extended field overhead and general conditions, equipment costs, home office overhead, lost productivity and inefficiency damages, additional payroll and labor costs, etc.) for any delay to its Work. Contractor's sole and exclusive remedy for a delay to its Work that is not caused by Contractor (or a person or entity performing a portion of Contractor's scope of Work) shall be an extension of time to substantially complete and finally complete the Project; provided, however, that Owner granting Contractor an extension of time is not a condition precedent to this no-damage-for-delay provision. Contractor shall also not be entitled to any damages for disruption or interference to its Work or for having to accelerate or incur additional labor or payroll costs in order to make up or overcome a delay to its Work so that it can maintain the dates for Substantial Completion and Final Completion. Contractor agrees that in determining and agreeing to the Contract Price it considered this no-damage-for-delay provision and understands that it is not entitled to any damages whatsoever for a delay to its Work.

10.07 *No Intended Third-Party Beneficiaries*

A. There are no intended third-party beneficiaries to the Contract.

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IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

CITY OF PORT ORANGE
Owner

By: Donald O. Burnette

Title: Mayor

Date: June 15, 2021

Attest: Robin L. Fenwick, MMC

Title: City Clerk

Address for giving notices:
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5500

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U.S. Water Services Corporation

By: Gary Deremer

Title: CEO

Date: 6/1/2021

U.S. Water Services Corporation CORPORATE SEAL 2003 FLORIDA

Attest: Edward Nikotell

Title: VP, Secretary

Address for giving notices:

4939 Cross Bayou Boulevard

New Port Richey, Florida 34652

Telephone: (727) 848-8292

E-Mail:

License No.: CGC003307 & CUC1223914

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Swiss Re
Corporate Solutions
1450 American Lane, Suite 1100
Schaumburg, IL 60173

946 1 AB 0.461 T6 P2 AUTO 341357.14-NNNNNN

CITY OF PORT ORANGE, FLORIDA, A CHARTERED MUNICIPAL CORPORATION
1000 CITY CENTER CIRCLE
PORT ORANGE, FL 64105

341357.14-946.1

Swiss Re
Corporate Solutions

Swiss Re Corporate Solutions America Insurance Corporation
Swiss Re Corporate Solutions Elite Insurance Corporation
Swiss Re Corporate Solutions Premier Insurance Corporation
Swiss Re Corporate Solutions Capacity Insurance Corporation
1200 Main Street, Suite 800
Kansas City, MO 64105
T 800-255-6931
www.swissre.com

April 29, 2022

CITY OF PORT ORANGE, FLORIDA, A CHARTERED MUNICIPAL CORPORATION
1000 CITY CENTER CIRCLE
PORT ORANGE, FL 64105

Re: Company Name Change(s)
Named Insured: U.S. WATER SERVICES CORPORATION
Bond No: 2317335
Bond Term: 4/29/2021 - 4/29/2022
Name Change Effective Date: April 29, 2022

To Whom It May Concern:

Swiss Re Corporate Solutions is streamlining the legal entity structure of its North American business to reduce complexity, enable strategic growth and improve capital efficiency. As part of this effort, the names of the below North America entities have changed.

We are enclosing a copy of Name Change Rider, which indicates that North American Specialty Insurance Company has changed its name to Swiss Re Corporate Solutions America Insurance Corporation. This form is now a part of your bond.

References to North American Specialty Insurance Company, if any, in your bond, certificate(s), application(s), endorsement(s), or other forms or notices you may receive are replaced with Swiss Re Corporate Solutions America Insurance Corporation. All other terms, conditions and exclusions within your bond remain unchanged.

If you have any questions, please contact Sean Friend at Sean_Friend@swissre.com

Sincerely,

Former Name	New Name
North American Specialty Insurance Company	Swiss Re Corporate Solutions America Insurance Corporation
Washington International Insurance Company	Swiss Re Corporate Solutions Premier Insurance Corporation

Cc: U.S. WATER SERVICES CORPORATION
4939 CROSS BAYOU BLVD.
NEW PORT RICHEY, FL 34652-0000

341357.14-946.2

NAME CHANGE RIDER

This Endorsement is made part of and should be kept with your bond.

The name of NORTH AMERICAN SPECIALTY INSURANCE COMPANY was changed to SWISS RE CORPORATE SOLUTIONS AMERICA INSURANCE CORPORATION effective on April 29, 2022.

The following changes are made to your bond:

- All references to "North American Specialty Insurance Company" are changed to "Swiss Re Corporate Solutions America Insurance Corporation."

All other terms, conditions or benefits remain unchanged.

As a condition precedent to the change of Surety name, the Obligee acknowledges and expressly agrees that the change of Surety name does not constitute a new obligation and the liability of the attached bond shall not exceed the penal sum stated and is not cumulative.

Swiss Re Corporate Solutions America Insurance Corporation
Home Office:
1450 American Lane, Suite 1100
Schaumburg, IL 60173

Swiss Re Corporate Solutions America Insurance Corporation

Elissa Kenny
Secretary

SWISS RE CORPORATE SOLUTIONS AMERICA INS. CORP.
CORPORATE SEAL
1973
MISSOURI

34 1357.14-946.3

SWISS RE CORPORATE SOLUTIONS

SWISS RE CORPORATE SOLUTIONS AMERICA INSURANCE CORPORATION F/K/A NORTH AMERICAN SPECIALTY INSURANCE COMPANY ("SRCSAIC")
SWISS RE CORPORATE SOLUTIONS PREMIER INSURANCE CORPORATION F/K/A WASHINGTON INTERNATIONAL INSURANCE COMPANY ("SRCSPIC")
WESTPORT INSURANCE CORPORATION ("WIC")

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT SRCSAIC, a corporation duly organized and existing under laws of the State of Missouri, and having its principal office in the City of Kansas City, Missouri, and SRCSPIC, a corporation organized and existing under the laws of the State of Missouri and having its principal office in the City of Kansas City, Missouri, and WIC, organized under the laws of the State of Missouri, and having its principal office in the City of Kansas City, Missouri, each does hereby make, constitute and appoint:

ELISSA KENNY

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

TWO HUNDRED MILLION ($200,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both SRCSAIC and SRCSPIC at meetings duly called and held on the 18th of November 2021 and WIC by written consent of its Executive Committee dated July 18, 2011.

"RESOLVED, that any two of the President, any Managing Director, any Senior Vice President, any Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is, authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Corporation bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Corporation; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Corporation may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Corporation when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."

SWISS RE CORPORATE SOLUTIONS AMERICA INS CORP CORPORATE SEAL 1973 MISSOURI

SWISS RE CORPORATE SOLUTIONS PREMIER INS CORP CORPORATE SEAL MISSOURI

By _____
Erik Janssens, Senior Vice President of SRCSAIC & Senior Vice President of SRCSPIC & Senior Vice President of WIC

By _____
Gerald Jagrowski, Vice President of SRCSAIC & Vice President of SRCSPIC & Vice President of WIC

WESTPORT INSURANCE CORPORATION CORPORATE SEAL MISSOURI

IN WITNESS WHEREOF, SRCSAIC, SRCSPIC, and WIC have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers

this 29TH day of APRIL, 2022

Swiss Re Corporate Solutions America Insurance Corporation
Swiss Re Corporate Solutions Premier Insurance Corporation
Westport Insurance Corporation

State of Illinois
County of Cook ss

On this 29TH day of APRIL, 20 22, before me, a Notary Public personally appeared Erik Janssens, Senior Vice President of SRCSAIC and Senior Vice President of SRCSPIC and Senior Vice President of WIC and Gerald Jagrowski, Vice President of SRCSAIC and Vice President of SPCSPIC and Vice President of WIC, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.

YASMIN A. PATEL OFFICIAL SEAL Notary Public, State of Illinois My Commission Expires May 21, 2023

Yasmin A. Patel, Notary

I, Jeffrey Goldberg, the duly elected Senior Vice President and Assistant Secretary of SRCSAIC and SRCSPIC and WIC, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said SRCSAIC and SRCSPIC and WIC, which is still in full force and effect.
IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 29TH day of APRIL, 20 22.

Jeffrey Goldberg, Senior Vice President & Assistant Secretary of SRCSAIC and SRCSPIC and WIC

SWISS RE CORPORATE SOLUTIONS AMERICA INS CORP CORPORATE SEAL 1973 MISSOURI

341357.14-946.4*

FRONT PAGE FOR BOND REQUIRED BY SECTION 255.05, F.S.

PAYMENT AND PERFORMANCE BOND

(Public Works)

Notice and Time Limitations Must Be In Accordance
With Section 255.05(2), (8) and (10), Florida Statutes

BOND NO. 2317335

PRINCIPAL:

Developer or Contractor:	U. S. Water Services Corporation
Principal Business Address:	4939 Cross Bayou Blvd.
	New Port Richey, FL 34652
Contact Person:	Christina Crego
Phone Number:	(727) 848-8292

SURETY:	North American Specialty Insurance Company
Address:	1200 Main Street, Ste 800
	Kansas City, MO 64105
Contact Person:	Sean Friend
Phone Number:	(847) 273-1251

OWNER:	City of Port Orange, Florida, a chartered municipal corporation
	1000 City Center Circle
	Port Orange, Florida 32129-4144
Contact Person:	City Manager
Phone Number:	(386) 506-5501

Amount: $997,536.00 **City Case/Project No. ITB 21-09 Herbert Street and Nova Road Master Lift Station Rehabilitation**

Description of Work: ITB 21-09 Herbert Street and Nova Road Master Lift Station Rehabilitation

Project Location: Herbert Street and Nova Road Master Lift Station, City of Port Orange, Volusia County, Florida

Legal Description: The 40 x 60 lift station easement on the Plat of Springwood Square, as recorded in Map Book 36, Page 178 of the Public Records of Volusia County, Florida

Front Page

All other pages are subsequent to this page regardless of any numbers that may be printed thereon.

[MTR/sal 2015-02-10]
[CA7442]

ITB 21-09 Herbert Street and Nova Road Master Lift Station Rehabilitation

Bond No. 2317335

COMBINATION PAYMENT AND PERFORMANCE BOND FOR PUBLIC CONSTRUCTION

per Section 255.05, Florida Statutes

Guaranty for Construction of Public Improvements

BY THIS BOND, We, **U.S. WATER SERVICES CORPORATION** as Principal, and North American Specialty Insurance Company, a corporation, as Surety, are bound to **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation, herein called "Owner" or sometimes referred to as "City," in the sum of **NINE HUNDRED NINETY-SEVEN THOUSAND FIVE HUNDRED THIRTY-SIX AND 00/100 DOLLARS ($997,536.00)**, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the terms of that certain EJCDC Agreement having an effective date of June 15, 2021, entered into by and between the Principal and the City, for Herbert Street and Nova Road Master Lift Station Rehabilitation, hereinafter referred to as the "Contract," being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and

2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract (the "Work"); and

3. Pays Owner all losses, damages, delay damages (including contractually authorized liquidated damages), expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a breach or material breach by Principal under the Contract documents; and

4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void; otherwise it remains in full force.

Notice of Nonpayment and Time Limitations

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Sections 255.05(2), (8) and (10), Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

IN WITNESS WHEREOF, this performance and payment bond shall be deemed an original, this 15th day of June, 2021.

Attest:

Edward Mitchell
(As to Corporate Principal) Secretary

Edward Mitchell
(Witness to Principal)

U.S. WATER SERVICES CORPORATION

By: _____
Gary Deremer, CEO

(Corporate Seal)

U.S. Water Services Corporation CORPORATE SEAL 2003 FLORIDA

North American Specialty Insurance Company
(Surety)

(Witness to Surety)

By: _____
Name: Allyson Foss Wing
(Attorney-in-Fact) & FL Licensed Resident Agent

Inquiries (407) 834-0022
(Corporate Seal)

NOTE: ***Date of BOND must not be prior to date of Contract.*** *If Developer/Principal is Partnership, all partners should execute BOND. All BONDS signed by an agent must be accompanied by a certified copy of the authority to act.*

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida.

(Capital Projects)
[MTR/sal 2015-02-10]
[CA7442]

SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY
WESTPORT INSURANCE CORPORATION

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS. THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Kansas City, Missouri and Washington International Insurance Company a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Kansas City, Missouri, and Westport Insurance Corporation, organized under the laws of the State of Missouri, and having its principal office in the City of Kansas City, Missouri does hereby make, constitute and appoint:

J.W. GUIGNARD, BRYCE R. GUIGNARD, PAUL J. CIAMBRIELLO, APRIL L. LIVELY, JENNIFER L. HINDLEY, MARGIE L. MORRIS,

DEBORAH ANN MURRAY, M. GARY FRANCIS, CHRISTINE MORTON, KELLY PHELAN and ALLYSON FOSS WING JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

ONE HUNDRED TWENTY FIVE MILLION ($125,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on March 24, 2000 and Westport Insurance Corporation by written consent of its Executive Committee dated July 18, 2011.

"RESOLVED, that any two of the President, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."

By _____
Steven P. Anderson, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company
& Senior Vice President of Westport Insurance Corporation

By _____
Mike A. Ito, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company
& Senior Vice President of Westport Insurance Corporation

IN WITNESS WHEREOF, North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 21st day of OCTOBER, 20 19.

North American Specialty Insurance Company
Washington International Insurance Company
Westport Insurance Corporation

State of Illinois
County of Cook ss:

On this 21st day of OCTOBER, 20 19, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation and Michael A. Ito Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.

OFFICIAL SEAL
M. KENNY
Notary Public - State of Illinois
My Commission Expires
12/04/2021

M. Kenny, Notary Public

I, Jeffrey Goldberg, the duly elected Vice President and Assistant Secretary of North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 15th day of June, 2021.

Jeffrey Goldberg, Vice President & Assistant Secretary of Washington International Insurance Company &
North American Specialty Insurance Company & Vice President & Assistant Secretary of Westport Insurance Corporation

CITY OF PORT ORANGE
NOTICE TO PROCEED

Issued By: **Junos Reed**
Public Works & Utilities
1395 Dunlawton, Ave
Port Orange, FL 32129
Ph:(386)506-5754
jureed@port-orange.org

Issued To: **U.S Water Services Corpoation**
2315 Griffin Rd. Unit 5
Leesburg, FL 34748

PROJECT TITLE: **ITB 21-09 Herbert & Nova Master Lift Station Rehabilitation**
PO NO. **PO-0001403**

This **Notice to Proceed** issued to your company is for the above referenced project and in accordance with the EJCDC Contract dated June 15, 2021, and all terms and conditions of the agreement between the City of Port Orange and U.S. Water Services Corporation. The **effective date** of this **Notice to Proceed** is March 13, 2023, with a **Final Completion** by February 6,2024.

Please sign below acknowledging and agreeing to the contents of this Notice to Proceed and return a copy of this form to the Junos Reed, Public Works & Utilities Engineering & Construction Manager via email:

Project Manager: **Junos Reed**

All future correspondence or requests for changes to the contract must be addressed to the Project Manager.

ISSUED BY:

Owner: City of Port Orange

This 13th day of March 2023.

By: Junos Reed
Junos Reed

Title: Engineering & Construction Manager

ACCEPTANCE NOTICE:

Receipt of the foregoing Notice to Proceed is hereby acknowledged and agreed by:

Company: **U.S. Water Services Corporation**

This 14th day of March 2023

By: Edward Mitchell
Edward Mitchell

Title: VP / Secretary

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/24/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

LOUIS MORRISON
LOUIS J. MORRISON C & C CONSULTANTS
P O BOX 701340
ST CLOUD, FL 34770-1340

CONTACT NAME: LOU MORRISON
PHONE (A/C, No, Ext): 888-494-9844 FAX (A/C, No): 407-809-5283
E-MAIL ADDRESS: HALMORRISON@HOTMAIL.COM

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : PHILADELPHIA INDEMNITY INS. CO.	18058
INSURER B : CRUM & FORSTER SPECIALTY INS. CO.	44520
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

U.S. WATER SERVICES CORPORATION
4939 CROSS BAYOU BOULEVARD
NEW PORT RICHEY, FL 34652

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X		PHPK2489226	11/30/22	11/30/23	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE / X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 3,000,000
	POLICY / PRO-JECT / X LOC						PRODUCTS - COMP/OP AGG	$ 3,000,000
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	UMBRELLA LIAB X OCCUR			PHUB840955 EXCESS OF CGL, AUTO LIABILITY & EMPLOYERS LIABILITY	11/30/22	11/30/23	EACH OCCURRENCE	$ 10,000,000
	X EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$ 10,000,000
	DED / RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N	N / A					E.L. EACH ACCIDENT	$
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$
B	CONTRACTORS POLLUTION LIABILITY	X		PKC-113611	11/30/22	11/30/23	$5,000,000 LIMIT	$5,000,000 AGG
	PROFESSIONAL LIABILITY						$2,000,000 LIMIT	$5,000,000 AGG

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CITY OF PORT ORANGE, FLORIDA IS LISTED AS ADDITIONAL INSURED ON THE GENERAL LIABILITY & CONTRACTORS POLLUTION LIABILITY POLICIES AS THEIR INTERESTS MAY APPEAR.

RE: ITB 21-09 HERBERT AND NOVA MASTER LIFT STATION REHABILITATION

CERTIFICATE HOLDER

CITY OF PORT ORANGE, FLORIDA
1000 CITY CENTER CIRCLE
PORT ORANGE, FL 32129

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Louis Morrison

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY COVERAGE FORM WATER DISTRICTS INSURANCE PROGRAM

SCHEDULE

Name of Person(s) or Organization(s):
CITY OF PORT ORANGE, FLORIDA 1000 CITY CENTER CIRCLE PORT ORANGE, FL 32129

SECTION II – WHO IS AN INSURED is amended to include as an insured the person(s) or organization(s) shown in the endorsement **SCHEDULE** above, but only with respect to liability arising out of your operations or premises owned by or rented to you.

All other terms and conditions of this policy remain unchanged.

Includes copyrighted material of Insurance Services Office, Inc. with permission.

ACORD EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YY): 12/03/2022

THIS IS EVIDENCE THAT INSURANCE AS IDENTIFIED BELOW HAS BEEN ISSUED, IS IN FORCE, AND CONVEYS ALL THE RIGHTS AND PRIVILEGES AFFORDED UNDER THE POLICY.

PRODUCER

PHONE (A/C, No, Ext): 888-494-9844

LOUIS MORRISON
LOUIS MORRISON C & C CONSULTANTS
PO BOX 701340
SAINT CLOUD, FL 34770-1340

CODE:
SUB CODE:
AGENCY CUSTOMER ID #:

COMPANY

PHILADELPHIA INDEMNITY INS. CO. (18058)

INSURED

U.S. WATER SERVICES CORPORATION
4939 CROSS BAYOU BOULEVARD
NEW PORT RICHEY, FL 34652

LOAN NUMBER:

POLICY NUMBER: PHPK2489226

EFFECTIVE DATE: 11/30/2022

EXPIRATION DATE: 11/30/2023

☐ CONTINUED UNTIL TERMINATED IF CHECKED

THIS REPLACES PRIOR EVIDENCE DATED:

PROPERTY INFORMATION

LOCATION/DESCRIPTION

LOCATION - NE CORNER OF S NOVA RD AND HERBERT STREET, PORT ORANGE, FL 32129

RE: ITB 21-09 HERBERT AND NOVA MASTER LIFT STATION REHABILITATION

COVERAGE INFORMATION

COVERAGE/PERILS/FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
INSTALLATION FLOATER/BUILDERS RISK	$997,536	$500**

REMARKS (Including Special Conditions)

SPECIAL RISK INCLUDING THEFT WITH REPLACEMENT COST VALUATION

WIND & FLOOD COVERAGE IS EXCLUDED

CANCELLATION

THE POLICY IS SUBJECT TO THE PREMIUMS, FORMS, AND RULES IN EFFECT FOR EACH POLICY PERIOD. SHOULD THE POLICY BE TERMINATED, THE COMPANY WILL GIVE THE ADDITIONAL INTEREST IDENTIFIED BELOW 30 DAYS WRITTEN NOTICE, AND WILL SEND NOTIFICATION OF ANY CHANGES TO THE POLICY THAT WOULD AFFECT THAT INTEREST, IN ACCORDANCE WITH THE POLICY PROVISIONS OR AS REQUIRED BY LAW.

ADDITIONAL INTEREST

NAME AND ADDRESS

CITY OF PORT ORANGE, FLORIDA
1000 CITY CENTER CIRCLE
PORT ORANGE, FL 32129

☐ MORTGAGEE
☒ LOSS PAYEE
☒ ADDITIONAL INSURED

LOAN #

AUTHORIZED REPRESENTATIVE

Louis Morrison

© ACORD CORPORATION 1993

Client#: 1922268 569USWAT

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 11/28/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
McGriff Insurance Services
12485 28th Street N 3rd Floor
St Petersburg, FL 33716

CONTACT NAME: Patricia Byrne
PHONE (A/C, No, Ext): 813-682-1510 FAX (A/C, No):
E-MAIL ADDRESS: Patricia.Byrne@McGriff.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Great American Alliance Insurance Co.	26832
INSURER B : Philadelphia Indemnity Insurance Co.	18058
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
U S Water Services Corporation
4939 Cross Bayou Blvd
New Port Richey, FL 34652-3434

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE / OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	POLICY / PRO-JECT / LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
B	AUTOMOBILE LIABILITY	X	X	PHPK2489866	11/30/2022	11/30/2023	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		X	WCE54616203	10/31/2022	10/31/2023	X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					E.L. EACH ACCIDENT	$1,000,000
							E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

ITB 21-09 Herbert and Nova Master Lift Station Rehabilitation.

Certificate holder is an additional insured in regards to the Automobile Liability when required by written contract. A Waiver of Subrogation applies to the Automobile Liability and Workers Compensation coverage when required by written contract.

CERTIFICATE HOLDER

City of Port Orange, Florida
1000 City Center Circle
Daytona Beach, FL 32129

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Charles Cassetta

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CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (C8c) Approval of Extension No. 2 of the Animal Services and Trap Neuter Release (TNR) Agreement with Halifax Humane Society (HHS)

DEPARTMENT: Police Services

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Extension No. 2 for a seven month extension to the existing annual contract for services with Halifax Humane Society and authorize the Mayor and City Clerk to execute all contract documents.

SUMMARY: This is a seven-month extension of the existing contract for animal services and the Trap Neuter Release services provided by the Halifax Humane Society (HHS.) HHS is again under new leadership and has proposed a revised service agreement with all municipalities in Volusia County who contract for their services. The cities have collectively asked for another extension of the current agreement in order to give us time to negotiate the new contract terms proposed by HHS. Services include, but are not limited to, temporary impoundment, spay and neuter, vaccination, adoption, euthanasia, and ear-tipping of feral cats as part of the City's Trap Neuter Release (TNR) program.

PRESENTER: Manuel Marino

ATTACHMENTS:

1.	HHS Agreement Extension No. 2 - Signed by HHS	HHS Agreement Extension No. 2 - Signed by HHS.pdf

Tracee Cody	Created/Initiated - 11/2/2023
Matthew Jones	Approved - 11/7/2023
Wayne Clark	Approved - 11/9/2023
Tracee Cody	Final Approval - 11/9/2023

EXTENSION NO. 2

TO AGREEMENT FOR SERVICES BETWEEN HALIFAX HUMANE SOCIETY, INC. AND THE CITY OF PORT ORANGE DATED JANUARY 7, 2023

THIS EXTENSION NO. 2 ("Extension No. 2") is entered into on the day and year set forth hereinafter by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "Impounding Agency" or "City") and **HALIFAX HUMANE SOCIETY, INC.** ("Humane Society"), a Florida Not For Profit Corporation whose principal address is 2364 West LPGA Boulevard, Daytona Beach, FL 32124 (collectively "the Parties"). The Parties have agreed as follows:

WHEREAS, on the 7th day of January, 2023, the Parties entered into an Agreement for Services ("Contract"), with an initial term commencing on February 1, 2023 and continuing until midnight on September 30, 2023; and

WHEREAS, the Parties agreed to extend the Contract ("Extension No. 1") for two additional months in order for the parties to negotiate a new service agreement, notwithstanding the date of execution of this Extension, to commence on October 1st, 2023 and continue until November 30, 2023, allowing for further negotiations; and

WHEREAS, the Parties once again seek to extend the Contract in order for the parties to negotiate a new service agreement, notwithstanding the date of execution of this Extension No. 2, to commence on December 1, 2023 and continue until June 30, 2024; and

WHEREAS, the Port Orange City Council has determined that the execution of this Extension No. 2 is beneficial to the citizens of the City of Port Orange.

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

The foregoing recitals are true and correct and incorporated herein.

1. *Term*. The Term of the Contract is hereby extended for seven additional months. Notwithstanding the date of execution, the Contract shall continue until June 30, 2024, and shall include a 10% increase to the fees provided therein beginning December 1, 2023.

2. *Integration*. This Extension expressly modifies the Contract and shall supersede all previous communications, representations, or agreements, written or verbal, between the Parties. In the event of a conflict, the terms and conditions of this Extension shall prevail. Unless modified herein, the original terms of the Contract shall remain in full force and effect.

3. *Contract Construction*. This Extension may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Extension shall be deemed valid as if an original signature was delivered. No contract shall be formed between Humane Society and the City until the City signs this Extension.

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

HALIFAX HUMANE SOCIETY, INC.

By: _____

Printed Name: Adam Leath

Title: CEO

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

Date: 11/9/23

CITY OF PORT ORANGE

By: _____
Donald O. Burnette, Mayor

Date: _____

Attest:

By: _____
Robin L. Fenwick, MMC, City Clerk

Date: _____

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (C8d) Approval of Amendment No. 1 to Task Authorization No. 9 with Pegasus Engineering, LLC for grant application development for the FEMA Flood Mitigation Assistance (FMA) Application for the Acquisition and Demolition of Flood-Prone Homes

DEPARTMENT: Community Development

GOAL: 1 - Public Safety; 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Amendment No. 1 to Task Authorization No. 9 with Pegasus Engineering, LLC and authorize the Mayor and City Clerk to execute the associated documents.

SUMMARY: Task Authorization No. 9 to Pegasus Engineering, LLC to prepare and submit a FEMA Flood Mitigation Assistance (FMA) application to acquire one flood-prone home was approved by City Council on October 17, 2023. Since then, staff has identified six (6) more flood-prone homes that are suitable for acquisition under the FEMA FMA grant program. An amendment to Task Authorization No. 9 to increase the workload from one (1) property to seven (7) properties is requested. The locations of the homes are shown on the attached location map.

Amendment No. 1 to Task Authorization No. 9 corresponds with Resolution No. 23-64 to acquire and demolish seven (7) flood-prone homes on the November 14, 2023 City Council agenda. Amendment No. 1 to Task Authorization No. 9 will not exceed $36,100. Upon being selected for FMA funding, the Pegasus fee will be eligible for reimbursement from FEMA as a pre-award cost under a Sub-Recipient Management Cost allocation (100% Federal match).

FEMA FMA funding for acquisition and demolition is a cost reimbursement grant with either a 75% federal / 25% non-federal, 90% federal / 10% non-federal, or 100% federal / 0% non-federal cost share, depending on the quantity and amount of flood claims for the structure. Of the 7 homes, all are eligible for up to a 90% federal cost share. The total estimated cost to acquire the homes is $2,000,000, of which the City match is $200,000. If approved, staff will make the necessary designation of fund balance for the acquisitions.

The FEMA FMA grant application deadline is December 1, 2023. No further FEMA FMA application requests will be made this year. Flood-prone property owners interested in FEMA grants to mitigate their properties will be put on the list for future year applications as they are made available. FEMA FMA grants are available annually,

while FEMA Hazard Mitigation Grant Program (HMGP) grants are only available after a federally declared disaster.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	Pegasus Engineering, LLC Amendment No. 1 to Task Authorization No. 9	Pegasus Engineering, LLC Amendment No. 1 to Task Authorization No. 9.pdf
2.	Pegasus Proposal Grant Services 7 Home Acquisition 2023 FMA	Pegasus Proposal Grant Services 7 Home Acquisition 2023 FMA.pdf
3.	Pegasus Engineering, LLC Task Auth No. 9	Pegasus Engineering, LLC Task Auth No. 9.pdf
4.	Pegasus Master Contract CA8124	Pegasus Master Contract CA8124.pdf
5.	Pegasus COI expires 09 18 2024	Pegasus COI expires 09 18 2024.pdf

Margaret Tomlinson	Created/Initiated - 10/27/2023
Tim Burman	Approved - 10/27/2023
John McKinney	Approved - 10/30/2023
Shannon Balmer	Approved - 11/1/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

AMENDMENT NO. 1 TO TASK AUTHORIZATION NO. 9

THIS AMENDMENT NO. 1 ("Amendment") is made and entered into the day and year set forth hereinafter by and between the **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation located at 1000 City Center Circle, Port Orange, Volusia County, Florida 32129-4144 (the "City"), and **PEGASUS ENGINEERING, LLC** ("Contractor") a Florida limited liability company with its principal place of business at 301 West State Road 434, Suite 309, Winter Springs, Florida 32708. The City and the Contractor are hereinafter collectively referred to as the "Parties."

WHEREAS, on the 16th day of May 2023, the Parties entered into a contract ("Contract") pursuant to Request for Statement of Qualifications 23-11 ("RFSQ 23-11) to provide Grant Management Services for Federal Emergency Management Agency ("FEMA") Hazard Mitigation Grant Program ("HMGP"), in accordance with Consultants Competitive Negotiation Act, and as more specifically described in RFSQ 23-11, with an initial five (5) year term, which may be renewed for one (1) five-year period; and

WHEREAS, on the 17th day of October 2023, the Parties entered into Task Authorization No. 9 for services relating to the acquisition and demolition of a flood-prone home as part of the 2023 Flood Mitigation Assistance ("FMA") Program, and as more particularly described in Contractor's Proposal, attached thereto as Exhibit "1"; and

WHEREAS, the Parties desire to amend Paragraph 2 of Task Authorization No. 9 from the acquisition and demolition of one (1) home, to the acquisition and demolition of seven (7) homes; and

WHEREAS, the Parties desire to amend Paragraph 4 of Task Authorization No. 9 from an amount not to exceed $19,140.00, to an amount not to exceed $36,100.00; and

WHEREAS, the Parties desire to replace the current Task Authorization No. 9 Exhibit "1," with Contractor's revised Proposal dated October 25, 2023 as Exhibit "1;" and

WHEREAS, the Mayor of Port Orange has determined that the execution of this Amendment is beneficial to the citizens of the City of Port Orange.

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. The foregoing recitals are true and correct and incorporated herein.

2. Paragraph 2 of Task Authorization No. 9 shall be deleted in its entirety, and shall read as follows:

   In addition to all other terms and conditions contained in the Contract, Contractor shall provide services relating to the acquisition and demolition of seven (7) flood-prone homes as part of the 2023 Flood Mitigation Assistance ("FMA") Program, and as more particularly described in Contractor's Proposal, attached hereto and incorporated herein as Task Authorization Exhibit "1."

3. Paragraph 4 of Task Authorization No. 9 shall be deleted in its entirety, and shall read as follows:

   In return for the services identified above, the City agrees to compensate the Contractor at the prices set forth in Exhibit "1" attached hereto and made a part hereof for all purposes, subject to a limit not

to exceed $36,100.00. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.70, Florida Statutes, as amended.

4. Task Authorization No. 9, Exhibit "1" is hereby deleted in its entirety and shall be replaced with the attached Contractor's Proposal dated October 25, 2023.

5. *Counterparts*. This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Amendment shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Amendment.

6. All other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have signed, sealed, and delivered this Amendment on the day and year stated hereinafter.

Witnesses:

PEGASUS ENGINEERING, LLC

By:_____

Fursan Munjed, Managing Member

If this Agreement is signed by an individual not identified as the Manager of the company in the records of the Florida Department of State, Division of Corporations, or other legally authorized person, then please provide written authorization for that individual to enter into contracts on behalf of the company.

_____

Printed Name:_____

Date:_____

_____

Printed Name:_____

CITY OF PORT ORANGE

By:_____
Donald O. Burnette, Mayor

Date:_____

ATTEST:

By:_____
Robin L. Fenwick, MMC, City Clerk

Date:_____

October 25, 2023 P-229795

Ms. Margaret Tomlinson, RLA, LEED AP
Construction & Engineering Manager
Community Development
City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129

Re: Grant Management Services for FEMA HMGP/FMA Stormwater & Drainage Improvements Project Continuing Contract
Contract No. RFSQ #23-11

Subj: Grant Application Development for the Acquisition and Demolition of Seven Flood-Prone Home as part of the 2023 Flood Mitigation Assistance (FMA) Program

Dear Ms. Tomlinson:

As requested, we are pleased to submit this proposal to the City of Port Orange to perform grant services associated with the Grant Application Development for the Acquisition and Demolition of a Flood-Prone Home as part of the 2023 Flood Mitigation Assistance (FMA) Program.

In essence, the City of Port Orange's Residential Flood Mitigation Program encompass three distinct flood mitigation categories the City is interested in participating: typical elevation projects, mitigation reconstruction projects, which entail the demolition and reconstruction of homes that are not feasible for elevation, and acquisition demolition projects. This proposal specifically encompasses the preparation of a FMA grant application for the acquisition and demolition of seven single family homes with a high risk of repetitive flooding.

Upon the successful FMA funding obligation of the FMA grant projects by the State and FEMA, and upon a request by the City of Port Orange, Pegasus Engineering would be pleased to submit a separate proposal to provide grant administration services (i.e., quarterly reports, reimbursement requests, close-out documents).

Under this contract, Pegasus Engineering will be responsible for the performance of the following tasks, at a minimum:

1. Review various e-mail correspondence from the City and the homeowners documenting the reported flooding associated with Hurricanes Ian, Nicole, and prior storm events.

2. Attend coordination meetings with City of Port Orange staff to discuss observed and claimed flooding extent and steps to follow in consideration of the removal of structures from harm's way.

3. Coordinate with City staff to prepare for and conduct one-on-one meetings with the homeowner in order to address specific mitigation questions as well as to address the homeowner's concerns.

4. Review available flood loss history, elevation certificate, flood insurance declaration documents, and appraisal provided by City of Port Orange officials and the homeowners.

5. Perform a field assessment of the homes that will be part of the FMA application.

6. Coordinate with City of Port Orange staff regarding the finished floor elevation, photographs of the structure, and required FEMA documentation, as deemed necessary.

7. Coordinate with City of Port Orange and different demolition contractors regarding the demolition proposal, and proposed acquisition costs associated with each structure.

8. Collect the supporting technical documentation associated with the structures to be acquired for the preparation of the Benefit Cost Analysis.

9. Prepare a preliminary Benefit Cost Analysis of the structures that will participate in the flood mitigation project.

10. Prepare a draft FEMA 2023 FMA application package.

11. Prepare and submit a final FEMA FMA application package to FDEM via the online portal on or before the deadline for submission of December 1, 2023, as established by FEMA.

12. Address Requests for Information (RFI) from DEM staff during the programmatic, engineering and environmental reviews of the FMA application. These efforts will include direct coordination with FDEM representatives during the review of the FMA application.

13. As part of FDEM's technical review process, Pegasus will coordinate with City staff to update and/or revise specific sections of the grant application, as necessary, to incorporate FDEM's review comments.

14. Coordinate closely with the homeowner and address any questions and concerns related to the flood mitigation project, as needed.

15. Attend City Commission Meetings with scheduled agenda items encompassing discussions related to this mitigation project, as needed.

The above-described services will be performed for an hourly not-to-exceed fee amount of **$36,100** in accordance with attached manhour and fee estimate (refer to Attachment "A").

We appreciate the opportunity to serve the City of Port Orange on this important assignment. If you have any questions, please contact me directly at 407-992-9160, extension 309, or by email at david@pegasusengineering.net.

Respectfully,

PEGASUS ENGINEERING, LLC

David W. Hamstra, P.E., CFM
Stormwater Department Manager

cc: Debra Neher, City of Port Orange
Valerie Duhl, City of Port Orange
Leylah Saavedra, Pegasus Engineering

Ms. Margaret Tomlinson, RLA, LEED AP
October 25, 2023

Grant Management Services for FEMA HMGP/FMA
Stormwater & Drainage Improvement Project Continuing Contract
Contract No. RFSQ #23-11

Grant Application Development for the Acquisition and Demolition of Seven Flood-Prone Home as part of the 2023 Flood Mitigation Assistance (FMA) Program

Approved for Pegasus Engineering, LLC

Juan Fong, P.E.	Principal Officer's Title	October 25, 2023 Date

This proposal is hereby accepted and authorization to proceed is hereby given.
(Please return one executed copy of this proposal for our Pegasus Engineering records).

See Amendment No. 1 to Task Authorization No. 9 Page 4		
Authorized Signature	Officer's Title	Date

EXHIBIT "A"
Manhour and Fee Estimate
for the

GRANT APPLICATION DEVELOPMENT FOR THE ACQUISITION AND DEMOLITION OF SEVEN FLOOD-PRONE HOMES AS PART OF THE 2023 FLOOD MITIGATION ASSISTANCE (FMA) PROGRAM

Task Description	Grant Program Manager (Hamstra, P.E.)	Grant Project Manager (Saavedra, P.E.)	Grant Management Specialist (Whikehart, P.E.)	Sr. Designer/ GIS Technician (Greenough)	Administrative Assistant (Villanueva)	Task Hours	Task Fees
Standard Hourly Rates	$195.00	$185.00	$150.00	$120.00	$85.00		
Review various e-mail correspondence from the City and the homeowner documenting the reported flooding		4	4		2	10	$1,510.00
Attend coordination meetings with City staff to discuss project specifics	4	4				8	$1,520.00
Conduct a one-on-one meeting with the homeowner in order to address specific mitigation questions	2	7	4		2	15	$2,455.00
Review available flood loss history, elevation certificate, flood insurance declaration documents, etc.		7	7		4	18	$2,685.00
Perform a field assessment of the home that will be part of the HMGP application	10	10			2	22	$3,970.00
Coordinate with City staff regarding the finished floor elevation, photographs, etc.		4	2			6	$1,040.00
Coordinate with mitigation contractors regarding the proposed mitigation costs		2			1	3	$455.00
Summarize in a database the supporting technical documentation for the structure to be mitigated		4	4			8	$1,340.00
Prepare a preliminary Benefit Cost Analysis of the structure that participates in the flood mitigation project	4	8				12	$2,260.00
Prepare a draft FEMA HMGP application packet, including figures and relevant supporting documentation	2	24	12	21	2	61	$9,320.00
Prepare and submit a final FEMA HMGP application package to FDEM via the online portal		4			4	8	$1,080.00
Address Requests for Information (RFI) from DEM staff during the programmatic, engineering and environmental reviews	2	12	6	3	2	25	$4,040.00
Follow up with the homeowners to address their questions and concerns related to the Mitigation Reconstruction Project		4	2		2	8	$1,210.00
Prepare for and attend City Commission Meetings regarding the mitigation project, as needed	4	4				8	$1,520.00
Project Administration (Status Reports via Monthly Invoices)	6				3	9	$1,425.00
TASK HOURS	34	98	41	24	24	221	
TASK LABOR COSTS	$6,630.00	$18,130.00	$6,150.00	$2,880.00	$2,040.00	$35,830.00	$35,830.00
PERCENT BREAKDOWN	18.5%	50.6%	17.2%	8.0%	5.7%	100.0%	

Breakdown in Fees

(1) Labor Costs	=	$35,830.00
(2) Reimbursable Expenses	=	$270.00
TOTAL HOURLY NOT TO EXCEED AMOUNT	=	**$36,100.00**

October 25, 2023 P-229795

Ms. Margaret Tomlinson, RLA, LEED AP
Construction & Engineering Manager
Community Development
City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129

Re: Grant Management Services for FEMA HMGP/FMA Stormwater & Drainage Improvements Project Continuing Contract
Contract No. RFSQ #23-11

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In essence, the City of Port Orange's Residential Flood Mitigation Program encompass three distinct flood mitigation categories the City is interested in participating: typical elevation projects, mitigation reconstruction projects, which entail the demolition and reconstruction of homes that are not feasible for elevation, and acquisition demolition projects. This proposal specifically encompasses the preparation of a FMA grant application for the acquisition and demolition of seven single family homes with a high risk of repetitive flooding.

Upon the successful FMA funding obligation of the FMA grant projects by the State and FEMA, and upon a request by the City of Port Orange, Pegasus Engineering would be pleased to submit a separate proposal to provide grant administration services (i.e., quarterly reports, reimbursement requests, close-out documents).

Under this contract, Pegasus Engineering will be responsible for the performance of the following tasks, at a minimum:

1. Review various e-mail correspondence from the City and the homeowners documenting the reported flooding associated with Hurricanes Ian, Nicole, and prior storm events.

2. Attend coordination meetings with City of Port Orange staff to discuss observed and claimed flooding extent and steps to follow in consideration of the removal of structures from harm's way.

3. Coordinate with City staff to prepare for and conduct one-on-one meetings with the homeowner in order to address specific mitigation questions as well as to address the homeowner's concerns.

4. Review available flood loss history, elevation certificate, flood insurance declaration documents, and appraisal provided by City of Port Orange officials and the homeowners.

5. Perform a field assessment of the homes that will be part of the FMA application.

6. Coordinate with City of Port Orange staff regarding the finished floor elevation, photographs of the structure, and required FEMA documentation, as deemed necessary.

7. Coordinate with City of Port Orange and different demolition contractors regarding the demolition proposal, and proposed acquisition costs associated with each structure.

8. Collect the supporting technical documentation associated with the structures to be acquired for the preparation of the Benefit Cost Analysis.

9. Prepare a preliminary Benefit Cost Analysis of the structures that will participate in the flood mitigation project.

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11. Prepare and submit a final FEMA FMA application package to FDEM via the online portal on or before the deadline for submission of December 1, 2023, as established by FEMA.

12. Address Requests for Information (RFI) from DEM staff during the programmatic, engineering and environmental reviews of the FMA application. These efforts will include direct coordination with FDEM representatives during the review of the FMA application.

13. As part of FDEM's technical review process, Pegasus will coordinate with City staff to update and/or revise specific sections of the grant application, as necessary, to incorporate FDEM's review comments.

14. Coordinate closely with the homeowner and address any questions and concerns related to the flood mitigation project, as needed.

15. Attend City Commission Meetings with scheduled agenda items encompassing discussions related to this mitigation project, as needed.

The above-described services will be performed for an hourly not-to-exceed fee amount of **$36,100** in accordance with attached manhour and fee estimate (refer to Attachment "A").

We appreciate the opportunity to serve the City of Port Orange on this important assignment. If you have any questions, please contact me directly at 407-992-9160, extension 309, or by email at david@pegasusengineering.net.

Respectfully,

PEGASUS ENGINEERING, LLC

David W. Hamstra, P.E., CFM
Stormwater Department Manager

cc: Debra Neher, City of Port Orange
Valerie Duhl, City of Port Orange
Leylah Saavedra, Pegasus Engineering

Ms. Margaret Tomlinson, RLA, LEED AP
October 25, 2023

Grant Management Services for FEMA HMGP/FMA
Stormwater & Drainage Improvement Project Continuing Contract
Contract No. RFSQ #23-11

Grant Application Development for the Acquisition and Demolition of Seven Flood-Prone Home as part of the 2023 Flood Mitigation Assistance (FMA) Program

Approved for Pegasus Engineering, LLC

_____	Principal	October 25, 2023
Juan Fong, P.E.	Officer's Title	Date

This proposal is hereby accepted and authorization to proceed is hereby given.
(Please return one executed copy of this proposal for our Pegasus Engineering records).

_____	_____	_____
Authorized Signature	Officer's Title	Date

EXHIBIT "A"
Manhour and Fee Estimate
for the

GRANT APPLICATION DEVELOPMENT FOR THE ACQUISITION AND DEMOLITION OF SEVEN FLOOD-PRONE HOMES AS PART OF THE 2023 FLOOD MITIGATION ASSISTANCE (FMA) PROGRAM

Task Description	Grant Program Manager (Hamstra, P.E.)	Grant Project Manager (Saavedra, P.E.)	Grant Management Specialist (Whikehart, P.E.)	Sr. Designer/ GIS Technician (Greenough)	Administrative Assistant (Villanueva)	Task Hours	Task Fees
Standard Hourly Rates	$195.00	$185.00	$150.00	$120.00	$85.00		
Review various e-mail correspondence from the City and the homeowner documenting the reported flooding		4	4		2	10	$1,510.00
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Summarize in a database the supporting technical documentation for the structure to be mitigated		4	4			8	$1,340.00
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Prepare and submit a final FEMA HMGP application package to FDEM via the online portal		4			4	8	$1,080.00
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Follow up with the homeowners to address their questions and concerns related to the Mitigation Reconstruction Project		4	2		2	8	$1,210.00
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Project Administration (Status Reports via Monthly Invoices)	6				3	9	$1,425.00
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PERCENT BREAKDOWN	18.5%	50.6%	17.2%	8.0%	5.7%	100.0%	

Breakdown in Fees

(1) Labor Costs	=	$35,830.00
(2) Reimbursable Expenses	=	$270.00
TOTAL HOURLY NOT TO EXCEED AMOUNT	=	**$36,100.00**

TASK AUTHORIZATION NO. 9
Contract for Services dated May 16, 2023
Between the City of Port Orange, Florida and Pegasus Engineering, LLC

THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **PEGASUS ENGINEERING, LLC** ("Contractor"), a Florida limited liability corporation with its principal place of business at 301 West State Road 434, Suite 309, Winter Springs, Florida 32708, and hereinafter collectively referred to as the "Parties," and is to that certain Contract for Services dated as specified above, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.

2. In addition to all other terms and conditions contained in the Contract, Contractor shall provide services relating to the acquisition and demolition of a flood-prone home as part of the 2023 Flood Mitigation Assistance (FMA) Program, and as more particularly described in Contractor's Proposal, attached hereto and incorporated herein as Task Authorization Exhibit "1."

3. Contractor shall complete the services to be provided herein within two (2) years of the date of written notice by the City to the Contractor.

4. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "1" attached hereto and made a part hereof for all purposes, subject to a limit not to exceed $19,140.00. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

5. *Truth-in-Negotiations*.

   a. For any fixed fee, cost-plus-a-fixed-fee or guaranteed maximum-not-to-exceed compensation professional service contract or compensation in a Task Authorization over $150,000.00, Architect shall execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract or Task Authorization under which such certificate is required must contain a provision that the original contract price or compensation and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price or compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract or compensation adjustments must be made within one (1) year following the end of the Contract. Otherwise, such adjustments shall be deemed waived by the Architect and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Architect shall act as the execution of a truth-in-negotiation certificate stating that the wage rates and other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting.

   b. Architect's signature on this Contract or a Task Authorization shall act as execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation set forth in this Contract or a Task Authorization are accurate, complete, and current at the time of contract. The certification shall also constitute an affirmation that Architect has disclosed all debts or fees owed to or that are pending before the City prior to the

execution of this Contract of Task Authorization.

6. *Compliance with Other Federal Standards*.

(a) Remedies. Administrative, contractual, or legal remedies in instances where the Contractor violates or breaches Contract terms. See Paragraph 8 - Termination for Default in the Contract, a draft of which is attached hereto and made apart hereof by reference.

(b) Termination for Convenience and Non-Appropriation of Funds. Termination for convenience by the City, including how it will be carried out and the basis for settlement is set forth in Paragraph 6, in the Contract, a draft of which is attached hereto and made apart hereof by reference. Termination for non-appropriation of funds is set forth in Paragraph 11 of the contract, a draft of which is attached hereto and made apart hereof by reference.

(c) Equal Employment Opportunity: During the performance of this Contract, the Contractor agrees as follows:

(i) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(ii) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(iii) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(iv) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be

provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(v) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(vi) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(vii) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(viii) The Contractor will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (viii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.

The applicant agrees that it will assist and cooperate actively with the administering agency

and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(d) Davis-Bacon Act: If applicable to this Contract, the Contractor agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. Contractor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must be required to pay wages not less than once a week. This Contract is conditioned upon the acceptance of the Department of Labor Wage Determination. **In situations where the Davis-Bacon Act does not apply, neither does the Copeland "Anti-Kickback" Act.**

When required by the federal program legislation, prime construction contracts over $2,000 awarded by the City require the Contractor to comply with the following provisions from 29 C.F.R. § 5.5(a)(1)-(10), and Contractor must include these provisions in full in any subcontracts:

29 C.F.R. § 5.5 Contract provisions and related matters.
(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of

the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis–Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein:

Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis–Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis–Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding.

The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis–Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice,

trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
(3) Payrolls and basic records.
(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis–Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a) (1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis–Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
(ii)
(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall

provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or

cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH– 347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii) (B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees.

(i) Apprentices.

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees.

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less

than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity.

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements.

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts.

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a) (1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment.

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis–Bacon and Related Act requirements.

All rulings and interpretations of the Davis–Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include

disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
(10) Certification of eligibility.
(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis–Bacon Act or 29 CFR 5.12(a)(1)."

(e) Copeland Anti Kick Back Act: Compliance with the Copeland "Anti-Kickback" Act.

Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this contract.

Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

Breach. A breach of the Contract clauses above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

(f) Contract Work Hours and Safety Standards Act:

For all contracts over $100,000 that involve the employment of mechanics, laborers, and construction work:

(i) Compliance with the Contract Work Hours and Safety Standards Act.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to

such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

(ii) Further Compliance with the Contract Work Hours and Safety Standards Act.

In addition to the clauses contained in subparagraphs (i)(1) thru (4), hereinabove, in any applicable contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 C.F.R. § 5.1, the Contractor shall comply with the following provisions and insert the same in any applicable contracts with subcontractors:

(1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

(2) Records to be maintained under this provision shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal

Emergency Management Agency, and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(g) Rights to Inventions Made Under a Contract or Agreement.

(1) Stafford Act Disaster Grants. This requirement does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of "funding agreement."

(2) If the FEMA award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

(3) The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

(h) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251– 1387) as amended.

For contracts exceeding $150,000.00, the following provisions apply:

"Clean Air Act"

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with federal assistance provided by FEMA.

"Federal Water Pollution Control Act"

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

The Contractor agrees to report each violation to the City and understands and agrees that the City, in turn, report each violation as required to assure notification to the Florida Division of Emergency Management ("FDEM"), Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with federal assistance provided by FEMA.

(i) Suspension and Debarment: This Contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by City. If it is later determined that the Contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to City, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

The Contractor agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

(j) Byrd Anti-Lobbying Amendment 31 U.S.C. § 1352 (as amended): Contractors who apply or bid for an award of more than $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

(k) Procurement of Recovered Materials: Requirements: The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

A. In the performance of this contract, the Contractor shall make maximum use of products

containing recovered materials that are EPA-designated items unless the product cannot be acquired.

1. Competitively within a timeframe providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program

C. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines website, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

(l) Prohibition on Contracting for Covered Telecommunications Equipment or Services.

(i) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(ii) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (iii) of this clause applies, the Contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

d Provide, as part of its performance of this Contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(iii) Exceptions.

(1) This clause does not prohibit Contractors from providing—

a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

a. Covered telecommunications equipment or services that:

1. Are *not used* as a substantial or essential component of any system; *and*
2. Are *not used* as critical technology of any system.

b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(iv) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (iv)(2) of this clause to the recipient or subrecipient, unless elsewhere in this Contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (iv)(1) of this clause:

a. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer

part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

b. Within 10 business days of submitting the information in paragraph (iv)(2)(a) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(v) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (v), in all subcontracts and other contractual instruments.

(m) Domestic Preference for Procurements. As appropriate, and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(n) Access to Records and Reports:

The Contractor agrees to provide City, Recipient (if applicable), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

In compliance with section 1225 of the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(o) Changes. To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope

of work, and otherwise allowable. This Contract addresses any potential requests for modifications or changes to the Contract terms as contained herein above.

(p) DHS Seal, LOGO, and Flags. The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The Contractor shall include this provision in any subcontracts.

(q) Compliance with Federal Laws, Regulations and Executive Orders and Acknowledgement of Federal Funding. This is an acknowledgment that FEMA financial assistance will be used to fund all or a portion of the Contract. The Contractor will comply with all applicable federal law, regulations, and Executive Orders, FEMA policies, procedures, and directives. The Contractor shall comply with all uniform administrative requirements, cost principles, and audit requirements for federal awards. Contractor shall ensure that all subcontracts comply with the same.

(r) No Obligation by Federal Government. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the Contract.

(s) Program Fraud and False or Fraudulent or Related Acts. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractors' actions pertaining to this Contract.

(t) Affirmative Socioeconomic Steps. If subcontracts are to be let, the prime Contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(u) Copyright and Data Rights. License and Delivery of Works Subject to Copyright and Data Rights. The Contractor grants to the City, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this Contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this Contract, the Contractor will identify such data and grant to the City or acquires on its behalf a license of the same scope as for data first produced in the performance of this Contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this Contract, the Contractor will deliver to the City data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the City.

(v) Drug Free Workplace Requirements: Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub I 100-690, Title V, Subtitle D). All Contractors entering into Federal funded contracts over $100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988. The Contractor shall comply with this requirement.

(w) Mandatory Disclosures: The Contractor must disclose in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

(x) Record Retention: Contractor will retain all required records pertinent to this contract for a period of five years after closeout of the FEMA grant, beginning on a date as described in 2 C.F.R.

§200.333 and retained in compliance with 2 C.F.R. §200.333. This provision is supplemental to other provisions in this Agreement.

(y) Federal Changes: Contractor shall comply with all applicable Federal agency regulations, policies, procedures and directives, including without limitation those listed directly or by reference, as they may be amended or promulgated from time to time during the term of the Contract.

(z) Safeguarding Personal Identifiable Information: Contractor will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable Federal, State and/or local laws regarding privacy and obligations of confidentiality.

(aa) Build America, Buy America Act. If applicable to this Contract, the Contractor shall comply with Build America, Buy America Act ("BABAA"), as part of the Infrastructure Investment and Jobs Act ("IIJA") (Pub. L. 117-58) and BABA provisions of the Act, 41 U.S.C. 8301, unless covered by a waiver.

Contractors and their subcontractors who apply or bid for an award for an infrastructure project subject to the domestic preference requirement in the BABAA shall file the required certification to the non-federal entity with each bid or offer for an infrastructure project, unless a domestic preference requirement is waived by FEMA.

Contractors and subcontractors certify that no federal financial assistance funding for infrastructure projects will be provided unless all the iron, steel, manufactured projects, and construction materials used in the project are produced in the United States. BABAA, Pub. L. No. 117-58, §§ 70901-52. Contractors and subcontractors shall also disclose any use of federal financial assistance for infrastructure projects that do not ensure compliance with BABAA domestic preference requirement. Such disclosures shall be forwarded to the grant recipient who in turn will forward the disclosures to FEMA, the federal awarding agency; subrecipients will forward disclosures to the pass-through entity, who will in turn forward the disclosures to FEMA.

7. If applicable to this Contract, for FEMA financial assistance programs subject to BABAA, Contractor and subcontractors must sign and submit a certification to the next tier (e.g., subcontractors submit to the Contractor; Contractor submits to the City).

8. This Task Authorization may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Task Authorization shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Task Authorization.

IN WITNESS WHEREOF, the Parties have made and executed this Task Authorization for the purposes herein expressed on the dates set forth below.

Witnesses:

Linnie Hunt

Printed Name: LINNIE HUNT

P. Villanueva

Printed Name: Priscilla Villanueva

PEGASUS ENGINEERING, LLC

By: Fursan Munjed

Fursan Munjed, Managing Member

Date: 10/06/23

CITY OF PORT ORANGE

By:_____
Donald O. Burnette, Mayor

Date: 10/17/2023

ATTEST:

By:_____
Robin L. Fenwick, MMC, City Clerk

Date: 10/17/2023

EXHIBIT “1”

Contractor's Quote

Consisting of 6 Pages

September 12, 2023 P-229795

Ms. Margaret Tomlinson, RLA, LEED AP
Construction & Engineering Manager
Community Development
City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129

Re: Grant Management Services for FEMA HMGP/FMA Stormwater & Drainage Improvements Project Continuing Contract
Contract No. RFSQ #23-11

Subj: Grant Application Development for the Acquisition and Demolition of a Flood-Prone Home as part of the 2023 Flood Mitigation Assistance (FMA) Program

Dear Ms. Tomlinson:

As requested, we are pleased to submit this proposal to the City of Port Orange to perform grant services associated with the Grant Application Development for the Acquisition and Demolition of a Flood-Prone Home as part of the 2023 Flood Mitigation Assistance (FMA) Program.

In essence, the City of Port Orange's Flood Mitigation Program encompass three distinct flood mitigation categories the City is interested in participating: typical elevation project, mitigation reconstruction project, which entails the demolition and reconstruction of homes that are not feasible for elevation, and acquisition demolition. This proposal specifically encompasses the preparation of a FMA grant application for the acquisition and demolition of a single family home with a high risk of repetitive flooding.

Upon the successful FMA funding obligation of the FMA grant projects by the State and FEMA, and upon a request by the City of Port Orange, Pegasus Engineering would be pleased to submit a separate proposal to provide grant administration services (i.e., quarterly reports, reimbursement requests, close-out documents).

Under this contract, Pegasus Engineering will be responsible for the performance of the following tasks, at a minimum:

1. Review various e-mail correspondence from the City and the homeowners documenting the reported flooding associated with Hurricanes Ian, Nicole, and prior storm events.

2. Attend coordination meetings with City of Port Orange staff to discuss observed and claimed flooding extent and steps to follow in consideration of the removal of structures from harm's way.

3. Coordinate with City staff to prepare for and conduct an one-on-one meeting with the homeowner in order to address specific mitigation questions as well as to address the homeowner's concerns.

4. Review available flood loss history, elevation certificate, flood insurance declaration documents, and appraisal provided by City of Port Orange officials and the homeowner.

5. Perform a field assessment of the home that will be part of the FMA application.

6. Coordinate with City of Port Orange staff regarding the finished floor elevation, photographs of the structure, and required FEMA documentation, as deemed necessary.

7. Coordinate with City of Port Orange and different demolition contractors regarding the demolition proposal, and proposed acquisition costs associated with the structure.

8. Collect the supporting technical documentation associated with the structure to be acquired for the preparation of the Benefit Cost Analysis.

9. Prepare a preliminary Benefit Cost Analysis of the structure that will participate in the flood mitigation project.

10. Prepare a draft FEMA 2023 FMA application package.

11. Prepare and submit a final FEMA FMA application package to FDEM via the online portal on or before the deadline for submission as established by FEMA.

12. Address Requests for Information (RFI) from DEM staff during the programmatic, engineering and environmental reviews of the FMA application. These efforts will include direct coordination with FDEM representatives during the review of the FMA application.

13. As part of FDEM's technical review process, Pegasus will coordinate with City staff to update and/or revise specific sections of the grant application, as necessary, to incorporate FDEM's review comments.

14. Coordinate closely with the homeowner and address any questions and concerns related to the flood mitigation project, as needed.

15. Attend City Commission Meetings with scheduled agenda items encompassing discussions related to this mitigation project, as needed.

The above-described services will be performed for an hourly not-to-exceed fee amount of **$19,140** in accordance with attached manhour and fee estimate (refer to Attachment "A").

We appreciate the opportunity to serve the City of Port Orange on this important assignment. If you have any questions, please contact me directly at 407-992-9160, extension 309, or by email at david@pegasusengineering.net.

Respectfully,

PEGASUS ENGINEERING, LLC

David W. Hamstra, P.E., CFM
Stormwater Department Manager

cc: Debra Neher, City of Port Orange
Valerie Duhl, City of Port Orange
Leylah Saavedra, Pegasus Engineering

Ms. Margaret Tomlinson, RLA, LEED AP
September 12, 2023

Grant Management Services for FEMA HMGP/FMA
Stormwater & Drainage Improvement Project Continuing Contract
Contract No. RFSQ #23-11

Grant Application Development for the Acquisition and Demolition of a Flood-Prone Home as part of the 2023 Flood Mitigation Assistance (FMA) Program

Approved for Pegasus Engineering, LLC

Fursan Munjed	Principal	September 12, 2023
Fursan Munjed, P.E.	Officer's Title	Date

This proposal is hereby accepted and authorization to proceed is hereby given.
(Please return one executed copy of this proposal for our Pegasus Engineering records).

See Task Authorization No. 9, Page 21

Authorized Signature	Officer's Title	Date

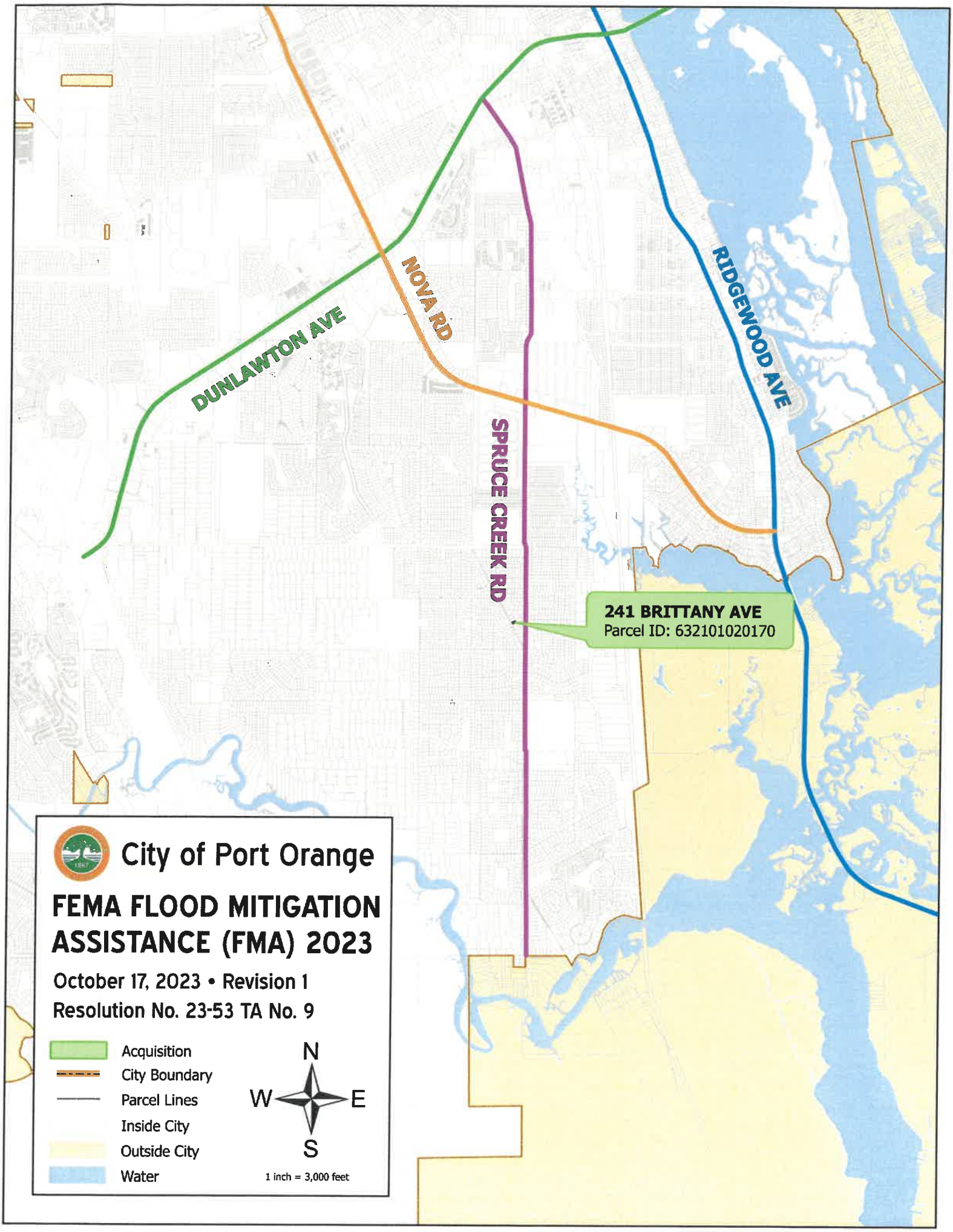
EXHIBIT "A"
Manhour and Fee Estimate
for the

GRANT APPLICATION DEVELOPMENT FOR THE ACQUISITION AND DEMOLITION OF A FLOOD-PRONE HOME AS PART OF THE 2023 FLOOD MITIGATION ASSISTANCE (FMA) PROGRAM

Task Description	Grant Program Manager (Hamstra, P.E.)	Grant Project Manager (Saavedra, P.E.)	Grant Management Specialist (Whikehart, P.E.)	Sr. Designer/ GIS Technician (Greenough)	Administrative Assistant (Villanueva)	Task Hours	Task Fees
Standard Hourly Rates	$195.00	$185.00	$150.00	$120.00	$85.00		
Review various e-mail correspondence from the City and the homeowner documenting the reported flooding		2	2		2	6	$840.00
Attend coordination meetings with City staff to discuss project specifics	2	2				4	$760.00
Conduct a one-on-one meeting with the homeowner in order to address specific mitigation questions	2	2	1		2	7	$1,080.00
Review available flood loss history, elevation certificate, flood insurance declaration documents, etc.		2	2		1	5	$755.00
Perform a field assessment of the home that will be part of the HMGP application	2	2			2	6	$930.00
Coordinate with City staff regarding the finished floor elevation, photographs, etc.		2	1			3	$520.00
Coordinate with mitigation contractors regarding the proposed mitigation costs		2			1	3	$455.00
Summarize in a database the supporting technical documentation for the structure to be mitigated		2	2			4	$670.00
Prepare a preliminary Benefit Cost Analysis of the structure that participates in the flood mitigation project	2	4				6	$1,130.00
Prepare a draft FEMA HMGP application packet, including figures and relevant supporting documentation	2	12	6	4	2	26	$4,160.00
Prepare and submit a final FEMA HMGP application package to FDEM via the online portal		4			4	8	$1,080.00
Address Requests for Information (RFI) from DEM staff during the programmatic, engineering and environmental reviews	2	4	6	2	2	16	$2,440.00
Follow up with the homeowners to address their questions and concerns related to the Mitigation Reconstruction Project		4	2		2	8	$1,210.00
Prepare for and attend City Commission Meetings regarding the mitigation project, as needed	4	4				8	$1,520.00
Project Administration (Status Reports via Monthly Invoices)	6				3	9	$1,425.00
TASK HOURS	22	48	22	6	21	119	
TASK LABOR COSTS	$4,290.00	$8,880.00	$3,300.00	$720.00	$1,785.00	$18,975.00	$18,975.00
PERCENT BREAKDOWN	22.6%	46.8%	17.4%	3.8%	9.4%	100.0%	

Breakdown in Fees

(1) Labor Costs	=	$18,975.00
(2) Reimbursable Expenses	=	$165.00
TOTAL HOURLY NOT TO EXCEED AMOUNT	=	**$19,140.00**


DUNLAWTON AVE
NOVA RD
SPRUCE CREEK RD
RIDGEWOOD AVE
241 BRITTANY AVE
Parcel ID: 632101020170
City of Port Orange
FEMA FLOOD MITIGATION ASSISTANCE (FMA) 2023
October 17, 2023 • Revision 1
Resolution No. 23-53 TA No. 9
Acquisition
City Boundary
Parcel Lines
Inside City
Outside City
Water
N
W
E
S
1 inch = 3,000 feet

CITY OF PORT ORANGE
CONTRACT FOR SERVICES
(with FEMA required provisions)

This Standard Contract for Services ("Contract") is entered into this 16 day of May, **2023**, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and **PEGASUS ENGINEERING, LLC** ("Contractor"), a Florida limited liability corporation whose principal address is 301 West State Road 434, Suite 309, Winter Springs, Florida 32708. The City and Contractor are collectively referred to herein as the "Parties."

1. *Provision of Services*

(a) The Contractor hereby agrees to provide Grant Management Services for Federal Emergency Management Agency ("FEMA") Hazard Mitigation Grant Program ("HMGP"), in accordance with Consultants Competitive Negotiation Act, and as more specifically described in Request for Statement of Qualifications 23-11 ("RFSQ 23-11"). This Contract together with RFSQ 23-11, Addendum No. 1, Exhibit "1," and Contractor's proposal, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference shall constitute the formal written Contract between the City and Contractor. For convenience, Section 3 Scope of Services and Requirements, Addendum No 1 of RFSQ 23-11 and negotiated rate schedule are attached hereto as Exhibit "1." A complete copy of RFSQ 23-11 is available in the Office of the City Clerk. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

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

Term: The term of this Contract shall commence on the date this Contract is signed by the Parties, and shall continue for a period of five (5) years (the "Term").

Renewals: Upon written agreement of the Parties, appropriation by City Council, and City Manager approval, this Contract may be renewed for one (1) five-year period.

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

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

Authorization for Services: This Contract standing alone does not authorize the performance of any work or services to be provided but the Contractor or require the City to place any orders for work or service. Authorization for performance of services by the Contractor under this Contract shall be in the form of written Task Authorization(s) ("Task Authorization") issued and executed by the City and signed by the Contractor. A sample Task Authorization is attached hereto as Exhibit "2."

(a) All Task Authorization(s) issued under this Contract shall terminate at the expiration of the term of the Task Authorization, unless amended in writing by the Parties. If a Task Authorization issued before the expiration of this Contract cannot be completed until after the expiration of this Contract, then this Contract shall expire on the Completion of Services under said Task Authorization, including any Amendments thereto, and after all work or services under the Task Authorization have been approved and accepted by

the City's Contract Administrator. The obligations entered herein by both Parties under this Contract and said Task Authorization(s) shall remain in full force and effect until completion of all work or services performed under this Contract and/or the Task Authorization(s).

(b) No new or additional Task Authorization(s) shall be issued after the original expiration date of this Contract. The extension to this Contract to coincide with the completion of an existing Task Authorization(s) issued prior to the original expiration date of this Contract shall not be construed as or constitute authorization by the City or the Contractor to enter into a new or additional Task Authorization(s) after the original expiration date of this Contract, unless this Contract is renewed prior to entering into a Contract for a new or additional Task Authorization(s).

2. *City Obligations*. In return for the services identified above, the City agrees to compensate the Contractor at the pricing set forth in Task Authorization(s); and reserves the right to utilize lump sum or hourly rate compensation, in amounts not to exceed the budget appropriation for each fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended. The Contractor shall be paid compensation for all services, labor and material required thereby, and for all expenditures as specified in each Task Authorization.

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

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

5. *Termination for Convenience of the City*

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

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

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

(i) cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;

(ii) place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;

(iii) terminate all subcontracts except those made with respect to contract performance not subject to the Notice;

(iv) settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Finance Director of Port Orange; and

(v) use best efforts to mitigate any damages which may be sustained by the Contractor as a consequence of termination under this clause.

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

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

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

(i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:

(1) the cost of work performed or supplies delivered;

(2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;

(3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.

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

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 25 of this contract concerning disputes.

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

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

8. *Examination of Records*

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

(b) The Contractor further agrees to include in any subcontract for more than $10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the City or any duly authorized representative shall, until the expiration of five (5) years after closeout of the FEMA grant under the subcontract, have access to and the right to examine and copy any pertinent books, documents, papers and records of such

contractor involved in transactions related to such subcontract, or this Contract. The term subcontract as used herein shall exclude purchase orders for public utility services at rates established for uniform applicability to the general public.

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

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

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

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

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

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

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

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

10. *Termination for Non-Appropriation of Funds*

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

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

11. *Insurance*. Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractor shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Contractor shall be primary and non-contributory. All insurance coverages of the Contractor shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Contractor's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation. The City shall not accept Workers'

Compensation Exemptions Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

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

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

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

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

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

Standard Insurance Requirements			
	Insurance	**Standards**	**Additional Requirements**

☒	Workers' Compensation The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. **The City will not accept elective exemptions**. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit (Exhibit A).	Contract Amount Limits Up to $10 million Statutory/$500,000 $10 - $20 million Statutory/$1,000,000 Contracts over $20 million To Be Determined by the City.	☐If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐If vessels involved, Jones Act coverage with limits of $500,000 required.
☒	Comprehensive General Liability (including Completed Operations and Contractual Liability	Limits: Combined Single Limit Bodily Injury and Property damage $1,000,000 occurrence $1,000,000 aggregate	☐When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	Limits: Auto Liability Body Injury and Property Damage: $1,000,000 each occurrence $1,000,000 aggregate	
	Additional Insurance Requirements		
☐	Property Insurance Builders Risk. Additional Coverage:	Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☒	Professional Liability	Limits: Coverage - $1,000,000	
☐	Installation Floater (IT)	Limits: Coverage - $ To be determined.	
☐	Contractor Pollution Liability	Limits: Coverage - $1,000,000	

☐	Errors and Omissions	Limits: Coverage - $1,000,000	
☐	Umbrella Policy	Limits: Coverage – $ To be determined.	
☐	Payment and Performance Bond Required	Limits: Coverage - Equal to 100% of the amount established by a Task Authorization issued pursuant to the Contract.	
☐	**City Manager waives Payment and Performance Bond for work under $200,000.00.**		
☐	**Unless otherwise required by law, City Manager waives Insurance for FOB goods.**		

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

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

14. *Modifications or Changes to this Contract*

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

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

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

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

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

16. *Warranties*. Contractor warrants that (1) the supplies to be provided to the City pursuant to this Contract are fit and sufficient for the purpose intended; (2) the supplies are merchantable, of good quality, and free from defects,

whether patent or latent, in material or workmanship, and (3) the supplies sold to the City pursuant to this Contract conform to the standards required by this Contract.

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

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

18. *Inspection*

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

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

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

19. *Liability for Loss or Damage*.

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

(b) To the fullest extent permitted by law, in addition to the express duty to indemnify City when there is any causal connection between Contractor's work and any injury, loss, damage, death or property damage, Contractor expressly undertakes a duty to defend City as a separate duty, independent of and broader than the duty to indemnify. The duty to defend agreed to by Contractor hereby expressly include all costs of litigation, attorney's

fees, settlement costs and reasonable expenses in connection with the litigation, whether or not the claims made for loss, injury, damage or property damage are valid or groundless and regardless of whether the defense of City is maintained by the City or assumed by Contractor as long as the claims made could be causally connected to Contractor as reasonable determined by City.

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

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

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

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

24. *E-Verify.* Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this Contract and shall expressly require any sub-contractors performing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the sub-contractor during the term of this Contract.

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

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

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

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

29. *Compliance with Other Federal Standards.*

(a) Remedies. This Contract addresses administrative, contractual, or legal remedies in instances where the Contractor violates or breaches Contract terms. See above Paragraph 8 - Termination for Default.

(b) Termination for Cause and Convenience. This Contract addresses termination for cause and for convenience by the City, including how it will be carried out and the basis for settlement. See above Paragraph 6 - Termination for Convenience of the City, Paragraph 8 – Termination for Default and Paragraph 11 - Termination for Non-Appropriation of Funds.

(c) Equal Employment Opportunity: During the performance of this Contract, the Contractor agrees as follows:

(i) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(ii) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(iii) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish

information.

(iv) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(v) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(vi) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(vii) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(viii) The Contractor will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (viii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect

to its own employment practices when it participates in federally assisted construction work: *Provided,* that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(d) Davis-Bacon Act: If applicable to this Contract, the Contractor agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29C.F.R. pt. 5 as may be applicable. Contractor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must be required to pay wages not less than once a week. This Contract was conditioned upon the acceptance of the Department of Labor Wage Determination.

If applicable, the City included the provisions at 29 C.F.R. § 5.5(a)(1)-(10) in full below, and Contractor must include these provisions in full in any subcontracts:

29 C.F.R. § 5.5 Contract provisions and related matters.
"(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the

labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis–Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein:

Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis–Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.
(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or
(C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis–Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
(2) Withholding. The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis–Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
(3) Payrolls and basic records.
(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis–Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a) (1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program

described in section 1(b)(2)(B) of the Davis–Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or

cash equivalents for the classification of work performed, as specified in the applicable wage determination

incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH– 347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)
(B) of this section.
(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
(4) Apprentices and trainees—
(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no

longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a) (1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
(8) Compliance with Davis–Bacon and Related Act requirements. All rulings and interpretations of the Davis–Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.
(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis–Bacon Act or 29 CFR 5.12(a)(1)."

(e) Copeland Anti Kick Back Act: Compliance with the Copeland "Anti-Kickback" Act.

Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this contract.

Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

Breach. A breach of the Contract clauses above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

(f) Contract Work Hours and Safety Standards Act:

(i) Compliance with the Contract Work Hours and Safety Standards Act.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of

forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section

(ii) Further Compliance with the Contract Work Hours and Safety Standards Act. This provision is required for contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1 where an additional contract provision is required:

(1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

(2) Records to be maintained under this provision shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(g) Rights to Inventions Made Under a Contract or Agreement: If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Contractor must comply with the requirements of 37 CFR Part 401,"Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(h) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387) as amended.

"Clean Air Act"

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with federal assistance provided by FEMA.

"Federal Water Pollution Control Act"

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

The Contractor agrees to report each violation to the City and understands and agrees that the City, in turn, report each violation as required to assure notification to the Recipient (if applicable), Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with federal assistance provided by FEMA.

(i) Suspension and Debarment: This Contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by City. If it is later determined that the Contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to City, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer.

The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

(j) Byrd Anti-Lobbying Amendment 31 U.S.C. § 1352 (as amended): Contractors who apply or bid for an award of more than $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

(k) Procurement of Recovered Materials: Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired

Competitively within a timeframe providing for compliance with the contract performance schedule;
Meeting contract performance requirements; or
At a reasonable price.

Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

(l) Prohibition on Contracting for Covered Telecommunications Equipment or Services.

(i) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(ii) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (iii) of this clause applies, the Contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

d Provide, as part of its performance of this Contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(iii) *Exceptions.*

(1) This clause does not prohibit Contractors from providing—

a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

a. Covered telecommunications equipment or services that:

1. Are *not used* as a substantial or essential component of any system; *and*

2. Are *not used* as critical technology of any system.

b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(i) *Reporting requirement.*

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall

report the information in paragraph (iv)(2) of this clause to the recipient or subrecipient, unless elsewhere in this Contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (iv)(1) of this clause:

a. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

b. Within 10 business days of submitting the information in paragraph (iv)(2)(a) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(v) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (v), in all subcontracts and other contractual instruments.

(m) Domestic Preference for Procurements. As appropriate, and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(n) Access to Records and Reports:

The Contractor agrees to provide City, Recipient (if applicable), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

In compliance with section 1225 of the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(o) Changes. To be allowable under a FEMA grant or cooperative agreement award, the cost of any Contract change, modification, amendment, addendum, Change Order, or constructive change must be necessary, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable. This Contract addresses any potential requests for modifications or changes to the Contract terms. See above Paragraph 15 - Modifications or Changes to this Contract.

(p) DHS Seal, LOGO, and Flags. The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The Contractor shall include this provision in any subcontracts.

(q) Compliance with Federal Laws, Regulations and Executive Orders and Acknowledgement of Federal Funding. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Contract. The Contractor will comply with all applicable federal law, regulations, and Executive Orders, FEMA policies, procedures, and directives. The Contractor shall comply with all uniform administrative requirements, cost principles, and audit requirements for federal awards. Contractor shall ensure that all subcontracts comply with the same.

(r) No Obligation by Federal Government. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the Contract.

(s) Program Fraud and False or Fraudulent or Related Acts. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractors' actions pertaining to this Contract.

(t) Affirmative Socioeconomic Steps. If subcontracts are to be let, the prime Contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(u) Copyright and Data Rights. License and Delivery of Works Subject to Copyright and Data Rights. The Contractor grants to the City, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this Contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this Contract, the Contractor will identify such data and grant to the City or acquires on its behalf a license of the same scope as for data first produced in the performance of this Contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this Contract, the Contractor will deliver to the City data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the City.

(v) Drug Free Workplace Requirements: Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub I 100-690, Title V, Subtitle D). All Contractors entering into Federal funded contracts over $100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988. The Contractor shall comply with this requirement.

(w) Mandatory Disclosures: The Contractor must disclose in writing all violations of Federal criminal law

involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

(x) Record Retention: Contractor will retain all required records pertinent to this contract for a period of five years after closeout of the FEMA grant, beginning on a date as described in 2 C.F.R. §200.334 and retained in compliance with 2 C.F.R. §200.334. This provision is supplemental to other provisions in this Agreement.

(y) Federal Changes: Contractor shall comply with all applicable Federal agency regulations, policies, procedures and directives, including without limitation those listed directly or by reference, as they may be amended or promulgated from time to time during the term of the Contract.

(z) Safeguarding Personal Identifiable Information: Contractor will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable Federal, State and/or local laws regarding privacy and obligations of confidentiality.

30. *Build America, Buy America Act*. If applicable to this Contract, the Contractor shall comply with Build America, Buy America Act ("BABAA"), as part of the Infrastructure Investment and Jobs Act ("IIJA") (Pub. L. 117-58) and BABA provisions of the Act, 41 U.S.C. 8301, unless covered by a waiver.

Contractors and their subcontractors who apply or bid for an award for an infrastructure project subject to the domestic preference requirement in the BABAA shall file the required certification to the non-federal entity with each bid or offer for an infrastructure project, unless a domestic preference requirement is waived by FEMA.
Contractors and subcontractors certify that no federal financial assistance funding for infrastructure projects will be provided unless all the iron, steel, manufactured projects, and construction materials used in the project are produced in the United States. BABAA, Pub. L. No. 117-58, §§ 70901-52. Contractors and subcontractors shall also disclose any use of federal financial assistance for infrastructure projects that do not ensure compliance with BABAA domestic preference requirement. Such disclosures shall be forwarded to the grant recipient who in turn will forward the disclosures to FEMA, the federal awarding agency; subrecipients will forward disclosures to the pass-through entity, who will in turn forward the disclosures to FEMA.

If applicable to this Contract, for FEMA financial assistance programs subject to BABAA, Contractor and subcontractors must sign and submit a certification to the next tier (e.g., subcontractors submit to the Contractor; Contractor submits to the City).

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

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

City: City of Port Orange
Attention: City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Copy to: City of Port Orange
Attention: Tim Burman, Community Development Director
1395 Dunlawton Avenue

Port Orange, Florida 32129
(386) 506-5615

Contractor: Pegasus Engineering, LLC
Attention: Fursan Munjed, Managing Member
301 West State Road 434
Suite 309
Winter Springs, Florida 32708
(407) 992-9160 Ext. 309 - Telephone
david@pegasusengineering.net - E-Mail

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

33. *Truth-in-Negotiations*

(a) For any fixed fee, cost-plus-a-fixed-fee or guaranteed maximum-not-to-exceed compensation professional service contract or compensation in a Task Authorization over $150,000.00, Architect shall execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract or Task Authorization under which such certificate is required must contain a provision that the original contract price or compensation and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price or compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract or compensation adjustments must be made within one (1) year following the end of the Contract. Otherwise, such adjustments shall be deemed waived by the Architect and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Architect shall act as the execution of a truth-in-negotiation certificate stating that the wage rates and other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting.

(b) Architect's signature on this Contract or a Task Authorization shall act as execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation set forth in this Contract or a Task Authorization are accurate, complete, and current at the time of contract. The certification shall also constitute an affirmation that Architect has disclosed all debts or fees owed to or that are pending before the City prior to the execution of this Contract of Task Authorization.

34. *Contract Construction*

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Agreement.

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

[Remainder of this page intentionally left blank]

Witnesses:

Printed Name: SEAN BECK

P. Villanueva

Printed Name: Priscilla Villanueva

PEGASUS ENGINEERING, LLC

By: _____

Fursan Munjed, Managing Member

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

Date 5.9.2023

CITY OF PORT ORANGE

By: _____
Donald O. Burnette, Mayor

Date: May 16, 2023

ATTEST:

By: _____
Robin L. Fenwick, MMC, City Clerk

Date: May 16, 2023

EXHIBIT "1"

Contractor's Negotiated Rate Schedule, RFSQ 23-11 Section 3, and Addendum No.1 of RFSQ 23-11

Consisting of 4 Pages

Cost Proposal

Project Position or Classification (Function to be Performed)	Hourly Rate
Grant Program Manager	$195.00
Grant Manager	$185.00
Grant Management Specialist	$150.00
Senior Designer	$120.00
Designer/CADD Technician	$100.00
Administrative Assistant	$85.00

*NOTE: The Hourly Rate Schedule presented above pertains solely to Pegasus Engineering staff. No sub-consultants are envisioned under this contract. However, if the unforeseen need to retain a sub-consultant arises, Pegasus Engineering will obtain City staff's pre-approval.

STATEMENTS MAY BE REJECTED AND/OR RESPONDENT(S) DISQUALIFIED FOR THE FOLLOWING REASONS:

(a) Failure to update the information on file including address, product, service or business descriptions.
(b) Failure to perform according to contract provisions.
(c) Conviction in a court of law of any criminal offense in connection with the conduct of business.
(d) Evidence of a violation of any federal or state antitrust law based on the submission of Statements or the awarding of contracts. Evidence that the Respondent has attempted to give a Board employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the Board's purchasing activity.
(e) Other reasons deemed appropriate by the City.

OWNERSHIP OF DOCUMENTS

All documents resulting from this project will become the sole property of the City of Port Orange. The Respondent must meet all requirements for retaining public records and transfer, at no cost, to the City all public records in the possession of the Respondent upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

AMERICANS WITH DISABILITIES ACT (ADA)

If you need special services provided for under the Americans with Disabilities Act, contact the ADA Coordinator in our Human Resources office at 386-506-5560 at least 48 hours before the scheduled event.

SECTION 3 – SCOPE OF SERVICES AND REQUIREMENTS

The purpose of this RFSQ is to establish a master agreement for Grant Management Services for FEMA HMGP/FMA Stormwater & Drainage Improvement Projects in the City of Port Orange in accordance with Florida Statue 287.055, known as the "Consultants' Competitive Negotiation Act" (the "CCNA").

Authorization for Services under the contract shall be in the form of written Task Authorization issued and executed by the City and signed by the awarded engineering firm authorized representative. Each Task Authorization shall describe the services required, state the date of the commencement and completion of work, and establish the amount and method of payment. The City makes no covenant or promise as to the number of available projects during the life of this Contract.

DESCRIPTION OF WORK

The City of Port Orange is seeking a professional firm that has extensive knowledge with FEMA Flood Mitigation Assistance (FMA) and Hazard Mitigation Grant Program (HMGP) programs specific to structure elevation, demolition/reconstruction, acquisition, and stormwater and drainage improvement projects. Experience should include working knowledge of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and the related statutory authority, the ability to perform FEMA Benefit Cost Analysis calculations and familiarity with the City of Port Orange landscape including the unique needs of the community. The City seeks extensive knowledge in community engagement, drainage and stormwater projects in residential neighborhoods.

BACKGROUND

The City of Port Orange will be applying for multiple FEMA grants. Projects include community wide drainage improvements, stormwater improvements, residential elevation and residential acquisition and demolition. Due to the highly complex nature of mitigation grants, there is an identified need to obtain professional services for grant management.

SECTION 4 – STANDARD PURCHASING DEFINITIONS

The City will use the following definitions in instructions to respondents, terms and conditions, special provisions, technical specifications and any other solicitation documents.

1. **Addendum** is a formal written document, released prior to the public opening that modifies any aspect of a Solicitation. Plural: Addenda

CITY OF PORT ORANGE
PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5740
purchdiv@port-orange.org

ADDENDUM NO. # 1

April 19, 2023

RFSQ #23-11 GRANT MANAGEMENT SERVICES FOR FEMA HMGP/FMA STORMWATER & DRAINAGE IMPROVEMENT PROJECTS

To All Submitters:

The following changes, clarifications and additions are hereby made part of the RFSQ for the above referenced project dated April 10, 2023 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of the submitter to confirm that all addenda have been received prior to submitting a Statement of Qualifications and acknowledge such in the RFSQ documents.

A. CLARIFICATIONS:

None

B. CHANGES TO RFSQ DOCUMENT:

On p. 42, TAB D – APPROACH TO PROJECT/UNDERSTANDING in paragraph 2, strike the language *'especially SRC projects'* as this does not apply to the City of Port Orange.

C. QUESTIONS AND ANSWERS:

Question #1

Tab B: Company Profile – History and Qualifications lists page maximums for the first two bullets. Does the City have required page limits for the last two bullets in this section?

Answer #1

No

Question #2

Tab D: Approach to Project/Understanding – Does the City have a required page limit for this section?

Answer #2

No

Question #3

Is there an incumbent currently performing the same, or substantially similar work to the scope of services being solicited in this RFSQ?

Answer #3

No

Question #4

Tab D: Approach to Project/Understanding uses the term "SRC projects". Could the City please clarify what "SRC" stands for in this context?

Answer #4
See Letter B above.

Question #5
In Section 6 – Special Conditions, requirements include that the submitting firm must have been incorporated, organized and/or established for a period of at least three (3) years prior to firm's submittal. Would the City be willing to consider a firm that was established in October, 2020, but meets all other requirements and can full demonstrate its staff have the adequate experience in FEMA HMGP and FMA programs necessary to provide the services requested?

Answer #5
No. The requirements outlined in the RFSQ document remain unchanged.

Jill Poolman, CPPO, CPPB, FCCM/Purchasing Manager
jpoolman@port-orange.org

In all other respects, except as specifically stated herein, the subject RFSQ #23-11 Grant Management Services for FEMA HMGP/FMA Stormwater & Drainage Improvement Projects remains unchanged.

END OF ADDENDUM NO. #1

EXHIBIT "2"

Sample Task Authorization for Services

Consisting of 21 Pages

TASK AUTHORIZATION NO. __
Contract for Services dated _____
Between the City of Port Orange, Florida and Pegasus Engineering, LLC

THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **PEGASUS ENGINEERING, LLC** ("Contractor"), a Florida limited liability corporation with its principal place of business at 301 West State Road 434, Suite 309, Winter Springs, Florida 32708, and hereinafter collectively referred to as the "Parties," and is to that certain Contract for Services dated as specified above, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.

2. In addition to all other terms and conditions contained in the Contract, Contractor shall provide services relating to _____ as more particularly described in the Scope of Services attached hereto and incorporated herein as Task Authorization Exhibit "1."

3. Contractor shall complete the services to be provided herein within _____ days of the date of written notice by the City to the Contractor.

4. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "__" attached hereto and made a part hereof for all purposes, subject to a limit not to exceed $_____. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

5. *Truth-in-Negotiations*.

   a. For any fixed fee, cost-plus-a-fixed-fee or guaranteed maximum-not-to-exceed compensation professional service contract or compensation in a Task Authorization over $150,000.00, Architect shall execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract or Task Authorization under which such certificate is required must contain a provision that the original contract price or compensation and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price or compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract or compensation adjustments must be made within one (1) year following the end of the Contract. Otherwise, such adjustments shall be deemed waived by the Architect and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Architect shall act as the execution of a truth-in-negotiation certificate stating that the wage rates and other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting.

   b. Architect's signature on this Contract or a Task Authorization shall act as execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation set forth in this Contract or a Task Authorization are accurate, complete, and current at the time of contract. The certification shall also constitute an affirmation that Architect has disclosed all debts or fees owed to or that are pending before the City prior to the execution of this Contract of Task Authorization.

6. *Compliance with Other Federal Standards.*

(a) Remedies. Administrative, contractual, or legal remedies in instances where the Contractor violates or breaches Contract terms. See Paragraph 8 - Termination for Default in the Contract, a draft of which is attached hereto and made apart hereof by reference.

(b) Termination for Convenience and Non-Appropriation of Funds. Termination for convenience by the City, including how it will be carried out and the basis for settlement is set forth in Paragraph 6, in the Contract, a draft of which is attached hereto and made apart hereof by reference. Termination for non-appropriation of funds is set forth in Paragraph 11 of the contract, a draft of which is attached hereto and made apart hereof by reference.

(c) Equal Employment Opportunity: During the performance of this Contract, the Contractor agrees as follows:

(i) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(ii) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(iii) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(iv) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be

provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(v) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(vi) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(vii) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(viii) The Contractor will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (viii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors

with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(d) Davis-Bacon Act: If applicable to this Contract, the Contractor agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. Contractor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must be required to pay wages not less than once a week. This Contract is conditioned upon the acceptance of the Department of Labor Wage Determination. **In situations where the Davis-Bacon Act does not apply, neither does the Copeland "Anti-Kickback" Act.**

When required by the federal program legislation, prime construction contracts over $2,000 awarded by the City require the Contractor to comply with the following provisions from 29 C.F.R. § 5.5(a)(1)-(10), and Contractor must include these provisions in full in any subcontracts:

29 C.F.R. § 5.5 Contract provisions and related matters.
(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):
(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis–Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein:

Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis–Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the

contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis–Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding.

The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis–Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or

owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
(3) Payrolls and basic records.
(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis–Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a) (1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis–Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
(ii)
(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or

audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or

cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH– 347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii) (B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees.

(i) Apprentices.

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State

Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees.

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity.

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements.

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts.

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a) (1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment.

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis–Bacon and Related Act requirements.

All rulings and interpretations of the Davis–Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis–Bacon Act or 29 CFR 5.12(a)(1)."

(e) Copeland Anti Kick Back Act: Compliance with the Copeland "Anti-Kickback" Act.

Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this contract.

Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

Breach. A breach of the Contract clauses above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

(f) Contract Work Hours and Safety Standards Act:

For all contracts over $100,000 that involve the employment of mechanics, laborers, and construction work:

(i) Compliance with the Contract Work Hours and Safety Standards Act.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The City shall upon its

own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

(ii) Further Compliance with the Contract Work Hours and Safety Standards Act.

In addition to the clauses contained in subparagraphs (i)(1) thru (4), hereinabove, in any applicable contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 C.F.R. § 5.1, the Contractor shall comply with the following provisions and insert the same in any applicable contracts with subcontractors:

(1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

(2) Records to be maintained under this provision shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(g) Rights to Inventions Made Under a Contract or Agreement.

(1) Stafford Act Disaster Grants. This requirement does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs

Assistance Grant Program, as FEMA awards under these programs do not meet the definition of "funding agreement."

(2) If the FEMA award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

(3) The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

(h) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251– 1387) as amended.

For contracts exceeding $150,000.00, the following provisions apply:

"Clean Air Act"

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with federal assistance provided by FEMA.

"Federal Water Pollution Control Act"

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

The Contractor agrees to report each violation to the City and understands and agrees that the City, in turn, report each violation as required to assure notification to the Florida Division of Emergency Management ("FDEM"), Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with federal assistance provided by FEMA.

(i) Suspension and Debarment: This Contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by City. If it is later determined that the Contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to City, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

The Contractor agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

(j) Byrd Anti-Lobbying Amendment 31 U.S.C. § 1352 (as amended): Contractors who apply or bid for an award of more than $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

(k) Procurement of Recovered Materials: Requirements: The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

A. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired.
   1. Competitively within a timeframe providing for compliance with the contract performance schedule;
   2. Meeting contract performance requirements; or
   3. At a reasonable price.
B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program
C. The Contractor also agrees to comply with all other applicable requirements of Section

6002 of the Solid Waste Disposal Act.

Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines website, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

(l) Prohibition on Contracting for Covered Telecommunications Equipment or Services.

(i) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(ii) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (iii) of this clause applies, the Contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

d Provide, as part of its performance of this Contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(iii) Exceptions.

(1) This clause does not prohibit Contractors from providing—

a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such

equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

a. Covered telecommunications equipment or services that:

1. Are *not used* as a substantial or essential component of any system; *and*
2. Are *not used* as critical technology of any system.

b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(iv) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (iv)(2) of this clause to the recipient or subrecipient, unless elsewhere in this Contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (iv)(1) of this clause:

a. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

b. Within 10 business days of submitting the information in paragraph (iv)(2)(a) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(v) *Subcontracts.* The Contractor shall insert the substance of this clause, including this

paragraph (v), in all subcontracts and other contractual instruments.

(m) Domestic Preference for Procurements. As appropriate, and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(n) Access to Records and Reports:

The Contractor agrees to provide City, Recipient (if applicable), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

In compliance with section 1225 of the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(o) Changes. To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable. This Contract addresses any potential requests for modifications or changes to the Contract terms as contained herein above.

(p) DHS Seal, LOGO, and Flags. The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The Contractor shall include this provision in any subcontracts.

(q) Compliance with Federal Laws, Regulations and Executive Orders and Acknowledgement of Federal Funding. This is an acknowledgment that FEMA financial assistance will be used to fund all or a portion of the Contract. The Contractor will comply with all applicable federal law, regulations, and Executive Orders, FEMA policies, procedures, and directives. The Contractor shall comply with all uniform administrative requirements, cost principles, and audit requirements for federal awards. Contractor shall ensure that all subcontracts comply with the same.

(r) No Obligation by Federal Government. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the Contract.

(s) Program Fraud and False or Fraudulent or Related Acts. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractors' actions pertaining to this Contract.

(t) Affirmative Socioeconomic Steps. If subcontracts are to be let, the prime Contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(u) Copyright and Data Rights. License and Delivery of Works Subject to Copyright and Data Rights. The Contractor grants to the City, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this Contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this Contract, the Contractor will identify such data and grant to the City or acquires on its behalf a license of the same scope as for data first produced in the performance of this Contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this Contract, the Contractor will deliver to the City data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the City.

(v) Drug Free Workplace Requirements: Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub I 100-690, Title V, Subtitle D). All Contractors entering into Federal funded contracts over $100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988. The Contractor shall comply with this requirement.

(w) Mandatory Disclosures: The Contractor must disclose in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

(x) Record Retention: Contractor will retain all required records pertinent to this contract for a period of five years after closeout of the FEMA grant, beginning on a date as described in 2 C.F.R. §200.333 and retained in compliance with 2 C.F.R. §200.333. This provision is supplemental to other provisions in this Agreement.

(y) Federal Changes: Contractor shall comply with all applicable Federal agency regulations, policies, procedures and directives, including without limitation those listed directly or by reference, as they may be amended or promulgated from time to time during the term of the Contract.

(z) Safeguarding Personal Identifiable Information: Contractor will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable Federal, State and/or local laws regarding privacy and obligations of confidentiality.

(aa) Build America, Buy America Act. If applicable to this Contract, the Contractor shall comply with Build America, Buy America Act ("BABAA"), as part of the Infrastructure Investment and Jobs Act

("IIJA") (Pub. L. 117-58) and BABA provisions of the Act, 41 U.S.C. 8301, unless covered by a waiver.

Contractors and their subcontractors who apply or bid for an award for an infrastructure project subject to the domestic preference requirement in the BABAA shall file the required certification to the non-federal entity with each bid or offer for an infrastructure project, unless a domestic preference requirement is waived by FEMA.

Contractors and subcontractors certify that no federal financial assistance funding for infrastructure projects will be provided unless all the iron, steel, manufactured projects, and construction materials used in the project are produced in the United States. BABAA, Pub. L. No. 117-58, §§ 70901-52. Contractors and subcontractors shall also disclose any use of federal financial assistance for infrastructure projects that do not ensure compliance with BABAA domestic preference requirement. Such disclosures shall be forwarded to the grant recipient who in turn will forward the disclosures to FEMA, the federal awarding agency; subrecipients will forward disclosures to the pass-through entity, who will in turn forward the disclosures to FEMA.

7. If applicable to this Contract, for FEMA financial assistance programs subject to BABAA, Contractor and subcontractors must sign and submit a certification to the next tier (e.g., subcontractors submit to the Contractor; Contractor submits to the City).

8. This Task Authorization may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Task Authorization shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Task Authorization.

IN WITNESS WHEREOF, the Parties have made and executed this Task Authorization for the purposes herein expressed on the dates set forth below.

Witnesses:

PEGASUS ENGINEERING, LLC

_____

Printed Name:_____

By:_____

Printed Name:_____

Title:_____

_____

Printed Name:_____

Date:_____

CITY OF PORT ORANGE

By:_____
Wayne Clerk, City Manager **OR**
Donald O. Burnette, Mayor

Date:_____

ATTEST:

By:_____
Robin L. Fenwick, MMC, City Clerk

Date:_____

PEGAENG-01

ASOSTENUTO

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/1/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
JCJ Insurance Agency, LLC
2208 Hillcrest Street
Orlando, FL 32803

CONTACT NAME:
PHONE (A/C, No, Ext): (321) 445-1117 FAX (A/C, No): (321) 445-1076
E-MAIL ADDRESS: certs@jcj-insurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Phoenix Insurance Co. (Travelers)	25623
INSURER B : Travelers Property & Casualty of America	25674
INSURER C : Travelers Casualty & Surety Co	19038
INSURER D : Berkley Insurance Company	32603
INSURER E :	
INSURER F :	

INSURED
Pegasus Engineering LLC
301 W. SR 434, Suite 309
Winter Springs, FL 32708

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [ ] LOC OTHER:	X	X	6802H633696	9/18/2022	9/18/2023	EACH OCCURRENCE $ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) $ 1,000,000 MED EXP (Any one person) $ 5,000 PERSONAL & ADV INJURY $ 1,000,000 GENERAL AGGREGATE $ 2,000,000 PRODUCTS - COMP/OP AGG $ 2,000,000 $	
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	X	X	6802H633696	9/18/2022	9/18/2023	COMBINED SINGLE LIMIT (Ea accident) $ 1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE (Per accident) $ $	
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB CLAIMS-MADE DED [X] RETENTION $ 10,000	X	X	CUP5D257010	9/18/2022	9/18/2023	EACH OCCURRENCE $ 5,000,000 AGGREGATE $ 5,000,000 $	
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N [ ] If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	X	UB5J589774	9/18/2022	9/18/2023	X PER STATUTE OTH-ER E.L. EACH ACCIDENT $ 1,000,000 E.L. DISEASE - EA EMPLOYEE $ 1,000,000 E.L. DISEASE - POLICY LIMIT $ 1,000,000	
D	Professional Liab			AEC-9058882-05	9/18/2022	9/18/2023	Per Claim/Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Grant Management Services for FEMA HMGP/FMA Stormwater & Drainage Improvement Projects; RFSQ #23-11
Certificate Holder is an Additional Insureds with regards to General, Auto and Umbrella Liability when required by written contract. Coverage is Primary & Non-Contributory with respect to all policies. A Waiver of Subrogation for all policies applies when required by written contract. 30 Day Notice of Cancellation, except for 10 days for non-payment.

CERTIFICATE HOLDER

CITY OF PORT ORANGE, FLORIDA
1000 City Center Circle
Port Orange, FL 32129

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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PEGAENG-01 BBROWN

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 9/20/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
JCJ Insurance Agency, LLC
2208 Hillcrest Street
Orlando, FL 32803

CONTACT NAME:
PHONE (A/C, No, Ext): (321) 445-1117 FAX (A/C, No): (321) 445-1076
E-MAIL ADDRESS: certs@jcj-insurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Phoenix Insurance Co. (Travelers)	25623
INSURER B : Travelers Property & Casualty of America	25674
INSURER C : Travelers Casualty & Surety Co	19038
INSURER D : Berkley Insurance Company	32603
INSURER E :	
INSURER F :	

INSURED
Pegasus Engineering LLC
301 W. SR 434, Suite 309
Winter Springs, FL 32708

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X	X	6802H633696	9/18/2023	9/18/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY	X	X	6802H633696	9/18/2023	9/18/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $ $
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000	X	X	CUP5D257010	9/18/2023	9/18/2024	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000 $
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	X	UB5J589774	9/18/2023	9/18/2024	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
D	Professional Liab			AEC-9070599-06	9/18/2023	9/18/2024	Per Claim/Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Grant Management Services for FEMA HMGP/FMA Stormwater & Drainage Improvement Projects; RFSQ #23-11
Certificate Holder is an Additional Insureds with regards to General, Auto and Umbrella Liability when required by written contract. Coverage is Primary & Non-Contributory with respect to all policies. A Waiver of Subrogation for all policies applies when required by written contract. 30 Day Notice of Cancellation, except for 10 days for non-payment.

CERTIFICATE HOLDER

CITY OF PORT ORANGE, FLORIDA
1000 City Center Circle
Port Orange, FL 32129

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (C8e) Sixth Addendum to the Wholesale Service Agreement for Wastewater services to Daytona Beach Shores

DEPARTMENT: Finance

GOAL: 2 - Infrastructure
5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve Sixth Addendum to the Wholesale Service Agreement for Wastewater services to Daytona Beach Shores.

SUMMARY: The City currently owns a regional facility for the treatment and disposal of sanitary sewage as approved by the State of Florida, Department of Environmental Protection. The City contracted with the City of Daytona Beach Shores (Shores) in an agreement dated November 12, 1984 that has been amended from time to time for the provision of sewage transportation, treatment, and disposal for the Shores wastewater service area. The City provides the Shores with a wholesale rate for this treatment and disposal. The Shores then bill their customers. Port Orange will continue to provide a master meter consumption listing for the Shores.

The City recently completed a rate study through Raftelis that has reviewed and provided a recommended rate as part of their review. This wholesale rate is calculated based on annual budgetary cost recovery estimates that cover the costs per thousand gallons of domestic sanitary sewage treatment and disposal. The City bills all services on a per-thousand-gallon basis.

The Shores pays the City monthly, within ten (10) days from receipt of the bill, for each and every month, for that amount of sewage delivered to the Port Orange facilities in the preceding month, based on the agreed rate per thousand gallons by electronic funds transfer. The Shores has agreed to pay by electronic funds transfer versus by credit card, which will be a cost savings from the reduction of not paying merchant service fees.

The current rate of $3.46 has been in effect since October 1, 2015. The new proposed rate of $4.05 will go into effect on January 1, 2024. The Shores further agrees to implement the next proposed rate increase of $4.28 on October 1, 2024.

The City agrees to continue to have wholesale rates reviewed and adjusted with an effective date of October 1 each year thereafter, starting in 2025. If the City does not provide a wholesale rate increase notice by July 1 of each year, the City will forego the

rate increase for that year.

PRESENTER: John McKinney

ATTACHMENTS:

1.	SIXTH ADDENDUM TO THE WHOLESALE SERVICE AGREEMENT 103023 PO edits - BV-REV (002)	SIXTH ADDENDUM TO THE WHOLESALE SERVICE AGREEMENT 103023 PO edits - BV-REV (002).docx

John McKinney	Created/Initiated - 10/30/2023
Steve Parnell	Approved - 10/30/2023
John McKinney	Approved - 10/31/2023
Matthew Jones	Approved - 11/7/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

SIXTH ADDENDUM TO THE WHOLESALE SERVICE AGREEMENT

THIS AGREEMENT, made and entered into by and between THE CITY OF DAYTONA BEACH SHORES, a municipal corporation of the State of Florida ("the Shores") and THE CITY OF PORT ORANGE, a municipal corporation of the State of Florida ("Port Orange").

Whereas, Port Orange owns its Pollution Control Facility which is a regional facility for the treatment and disposal of sanitary sewage from the southern area of North Central Volusia County, by methods approved by the State of Florida, Department of Environmental Protection and the U.S. Environmental Protection Agency; and

Whereas, Port Orange and the Shores are Parties to that certain Agreement dated November 12, 1984, as amended from time to time ("Shores Agreement"), for the provision of sewage transportation, treatment and disposal for the Shores wastewater service area; and

Whereas, Port Orange and the Volusia County entered into a Retail Sewer Service Agreement South Peninsula, Volusia /County, dated December 6, 1984 ("County Agreement") for provision of sanitary sewage service to the South Peninsula Sewage Collection System area ("South Peninsula Area"); and

Whereas, the Parties deem it mutually beneficial that Daytona Beach Shores will continue to bill as historically done for wastewater services within Daytona Beach Shores. Port Orange will continue to provide a consumption listing for Daytona Beach Shores; and

Whereas, the Parties are authorized by law to enter into this Agreement to amend the Shores Agreement, as previously amended.

WITNESSETH

That, for and in consideration of ten dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and the mutual promises herein, Port Orange and the Shores do hereby agree to amend the Shores Agreement as previously amended by the revision of Sections B. (2), B. (20) and B. (21) to read as follows:

B. (2) Port Orange agrees to establish a wholesale rate based on annual budgetary estimates, covering the costs described above per thousand gallons of domestic sanitary sewage. Monthly payments for all services rendered shall be computed on this basis. The Shores agrees to pay Port Orange monthly by electronic funds transfer, within ten (10) days from receipt of bill, for each and every month, for that amount of sewage delivered to the Port Orange facilities in the preceding month, based on the agreed rate per thousand gallons. Effective January 1, 2024 the rate shall be $4.05 per thousand gallons. Effective October 1, 2024, the rate shall be $4.28 per thousand gallons. The rates shall be reviewed and adjusted to be effective on October 1st for each year thereafter. Port Orange shall notice the Shores by no later than July 1 of each year of any proposed change(s) in the wholesale rates or forego the rate increase for that year.

B. (20) Ratification. The Shores Agreement, as previously amended and now further amended by this Sixth Addendum, is hereby fully ratified and reconfirmed in its entirety and all other provisions shall remain in full force and effect.

B. (21) Terms Effective. All other terms and conditions of the Shores Agreement, as previously amended, shall remain in full force and effect except as modified herein.

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Addendum by their duly authorized officials on the dates set forth below, the last being the Effective Date of this Sixth Addendum.

CITY OF DAYTONA BEACH SHORES

Witness:

_____

By:_____
Mayor Nancy Miller

_____

Attest: _____
Kurt Swartzlander, City Manager

Date: _____

CITY OF PORT ORANGE

Witness:

_____

By: _____
Mayor Donald O. Burnette

_____

Attest: _____
Robin L. Fenwick , City Clerk

Date: _____

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (C9) Resolution No. 23-26 - Establishing and Adopting Water, Wastewater, Reclaimed and Other Miscellaneous Utility Fees

DEPARTMENT: Finance

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve Resolution No. 23-26.

SUMMARY: As the City's water and wastewater treatment and distribution systems are critical infrastructure, it is important to adequately fund the maintenance and operations of the systems and ensure effective conservation measures are in place to protect the drinking water supply.

The City's rates for these systems are based on a block pricing structure to promote sustainable water consumption without negative impacts on utility revenues. This rewards customers for making cost-effective changes in water appliances and behavior through conservation. The block pricing targets inefficiency in discretionary water use such as landscape irrigation. The proposed rates provide sufficient funding to provide for operations, infrastructure improvements, and all required debt service requirements.

There have been no changes to the rates or rate structure since 2014. The Council did, however, approve Resolution No. 17-21 which updated certain language related to the administration of the fees, but the rates themselves have not changed since 2014. In 2022, Raftelis Financial Consultants, Inc. was contracted to study the City's current water, wastewater, and reclaimed utility rates and other municipal fees. Raftelis has completed its analysis and fee recommendations and the proposals have been completed based on Council's direction during workshops and presentations in October and December of 2022 and February and April 2023.

This resolution includes all recommended fees according to Raftelis and City staff. City fees are actual pass-through costs for water, sewer, and reclaimed utilities. These recommendations will produce revenues sufficient to meet the projected expenditure requirements of each utility system that maintains a financial position that is both sustainable and consistent with financial performance criteria established by the City. These rates provide a full cost recovery for our utilities.

The recommended annual fee increases will begin on January 1, 2024 and are included in the resolution.

The resolution incorporates language requiring periodic review of fees to ensure all fees are accurately capturing the cost of providing specific services.

The proposed fees will go towards funding the following upcoming notable projects:

- Lift Station Rehabilitation (citywide)
- Reclaimed Lake Improvements
- Water Reclamation Treatment Plant Improvements
- Ridgewood Ave. / N. Commonwealth Water Main Replacement
- Wastewater force main replacement across the Halifax River
- Treatment Plant generator replacement

PRESENTER: John McKinney

ATTACHMENTS:

1.	Reso 23-26 - Utility Rate Reso FINAL	Reso 23-26 - Utility Rate Reso FINAL.docx

Robin Fenwick	Created/Initiated - 8/31/2022
John McKinney	Approved - 7/13/2023
Matthew Jones	Approved - 11/8/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

RESOLUTION NO. 23-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING AND ADOPTING UTILITY SERVICE FEES, RATES AND CHARGES AND REVISED PROCESSES, ESTABLISHING SCHEDULE OF MONTHLY WATER CHARGES; ESTABLISHING SCHEDULE OF MONTHLY SEWER CHARGES; ESTABLISHING CHARGES AND RATES FOR RECLAIMED WATER SYSTEM; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 74 of the Code of Ordinances of the City of Port Orange, Florida, provides for the establishment of certain utility fees and charges by resolution of the City Council; and

WHEREAS, the City Council commissioned a utility rate study performed by Raftelis Financial Consultants, Inc. and has determined, based on that study, that the rates reflected herein are fair and equitable and necessary to fund the proper operation of the City's utility systems.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. Adoption of Utility Fee Schedule

The City Council of the City of Port Orange, Florida hereby adopts the following utility fee schedule.

PART A – DEVELOPMENT AND GROWTH RELATED FEES

Section 2. Development Fee Schedule – Water and Sewer Service

The following Development Fees Schedule set forth in this section shall become effective April 1, 2024:

A. Inside City Limits:

1. For each equivalent living unit connected to the system (including: single family or multiple family on a public or private utility systems):

Water Service Development Fee	$1,545.00
Sewer Service Development Fee	$1,674.00

2. For each campsite, space or other facility for temporary use in a campground or recreational park connected to the system:

Water Service Development Fee	$ 618.00
Sewer Service Development Fee	$ 669.60

3. For each motel, hotel, commercial or industrial use connected to the system:

Water Service Development Fee — $ 1,545.00 per equivalent living unit plus an amount computed as follows:

NUMBER OF FIXTURE UNITS	AMOUNT PER FIXTURE UNIT	EACH FIXTURE UNIT OVER
0 – 15	$ 0.00	0
16 – 30	103.67	15
31 & Above	77.75	30

Sewer Service Development Fee — $ 1,674.00 per equivalent living unit plus the following amount:

NUMBER OF FIXTURE UNITS	AMOUNT PER FIXTURE UNIT	EACH FIXTURE UNIT OVER
0 – 15	$ 0.00	0
16 – 30	111.60	15
31 & Above	83.70	30

B. Outside City Limits:

1. For each equivalent living unit connected to the system (Including: single family or multi-family for a public or private utility systems) a surcharge of 25% shall be added to the fees set forth in subsection A.1. above pursuant to s. 180.191, Florida Statutes. .

2. For each campsite, space or other facility for temporary use in a campground or recreational park connected to the system a surcharge of 25% shall be added to the fees set forth in subsection A.2. above pursuant to s. 180.191, Florida Statutes.

3. For each motel, hotel, commercial or industrial use connected to the system a surcharge of 25% shall be added to the fees set forth in subsection A.3. above pursuant to s. 180.191, Florida Statutes.

C. City of Daytona Beach Shores: (Treatment Only)

1. For each equivalent living unit connected to the system (including: single-family and multi-family for public or private utility systems):

Sewer Service Development Fee $998.00

2. For each motel, hotel, commercial or industrial use connected to the system:

Sewer Service Development Fee $998.00 per equivalent living unit plus the following amount:

NUMBER OF FIXTURE UNITS	AMOUNT PER FIXTURE UNIT	EACH FIXTURE UNIT OVER
0 – 15	$ 0.00	0
16 – 30	66.53	15
31 & Above	49.90	30

Each additional equivalent living unit occasioned by changes in property usage subsequent to the effective date of this resolution shall be subjected to a Development Fee computed in accordance with the foregoing criteria.

Section 3. Connection Charges for Water Service - Potable & Reclaimed

Connection Charges

Connection charges are not refundable and are due and payable prior to connection or reconnection to the utility system.

A. Inside City Limits:

The following charges shall be required for each connection made to the utility system inside the City limits:

		CONNECTION CHARGE	
METER SIZE		POTABLE	RECLAIMED/IRRIGATION
3/4	inch	$ 750.00	$ 750.00
1	inch	1,030.00	1,030.00
1 1/2	inch	1,220.00	1,220.00
2	inch	1,905.00	1,535.00
3	inch or larger	525.00 + actual material & labor	

B. Outside City Limits:

For each connection made to the water system outside of the City limits a surcharge of 25% shall be added to the fees set forth in subsection A. above pursuant to s. 180.191, Florida Statutes.

If a pressure main tap is required to complete connection, the pressure main tapping charge set forth in Section 12 of this Resolution shall be added to the connection charge. Charges for new service extensions shall be based on actual material, labor and equipment costs.

Section 4. Connection Charges for Sewer Service

There shall be no charge for a service connection made to the sewer system if such service connection is made at the same time as construction of sewer mains and is developer-installed. However, if a service connection is required after construction of the sewer main, or if the City pays for a service connection concurrent with a line extension, then the City will provide materials and labor to bring the service main to the property line of the lot or parcel to be connected and a minimum charge of $1,775.00 per service connection shall apply. The actual connection charge may be greater than the minimum charge if the actual cost to the City is greater than the minimum charge set forth in this Section.

PART B – DEPOSITS AND VARIOUS UTILITY RELATED CHARGES

Section 5. Application and Deposits for Service

A. Primary Utility Meter Deposit

Requests for new utility service shall be processed in accordance with Section 74-33(d) of the Code of Ordinances. The Finance Director shall waive deposits for property owners who have maintained a current account and have not been charged late fees or processed for a shut-off in the previous 36 months.

Upon the City becoming aware that a customer is deceased, the name on the account shall be changed to "Estate of [name of deceased]" and the deposit shall be applied to the account. For estates where there are multiple owners or tenants listed on the property deed or lease, the deposit may be transferred to a new account in the name of a surviving co-owner or co-tenant, upon request.

In cases of divorce requiring a change of accountholder, a new deposit shall be required unless the court instructs otherwise.

MINIMUM DEPOSIT – FOR PRIMARY METER ARE AS FOLLOWS:

METER SIZE	OWNER OF PROPERTY	TENANT
3/4 inch	$ 120.00	$ 210.00
1 inch	240.00	420.00
1 1/2 inch	360.00	630.00
2 inch	912.00	1,596.00
3 inch	1,260.00	2,205.00
4 inch	1,680.00	2,940.00
6 inch	4,200.00	7,350.00
8 inch	5,040.00	8,820.00

10	inch	7,200.00	12,600.00

B. DEPOSITS IN ADDITION TO PRIMARY METER – AT SAME ADDRESS
In addition to the primary meter above an additional deposit will be required for an additional reclaimed or potable meter.

ADDITIONAL METER DEPOSITS ARE AS FOLLOWS:

METER SIZE		OWNER OF PROPERTY	TENANT
3/4	inch	$ 42.00	$ 96.00
1	inch	84.00	192.00
1 1/2	inch	126.00	288.00
2	inch	319.00	729.00
3	inch	441.00	1,008.00
4	inch	588.00	1,344.00

C. Multiple Property Ownership – Single Customer – Shared Deposit – The following minimum deposit for utility (potable water and reclaimed) service shall be required for each customer owning multiple properties (in addition to subsection 5.A.) serviced by a 3/4 – inch meter or owning one (1) parcel of rental property serviced by multiple meters:

NUMBER OF UNITS OR METERS MINIMUM DEPOSIT
Three (3) or less: $120.00
Four (4) or more: $120.00 plus $42.00 for each additional unit or meter over 3

D. Customers who have been processed for disconnection for non-payment two times within a twelve-month period, or have a credit history evidencing delinquent payments on their accounts, will be required to pay an additional deposit equal to three (3) months average invoice, averaged over the previous 12 months.

E. The application for service shall require a valid driver's license or valid government-issued identification card and either proof of ownership or a valid lease agreement. A W-9 is required for all accounts establishing service in a business name. Should an applicant refuse to provide valid identification, the customer will be refused utility service.

F. The deposits outlined in this Section apply to all residential and commercial property owners and shall be refunded if a change of ownership can be verified. Deposits for residential owners who have maintained a current account and have not been charged late fees or processed for a shut-off in the previous 36 months shall be applied to future utility bills upon request by the residential owner. Deposits for tenant accounts shall be held until the account is closed.

Section 6. Portable Water Meter Charges

A. Upon receipt of the meter, the customer will pay a $1,615.00 security deposit plus a hydrant meter charge of $285.00. Upon return of the meter in good working condition, the individual or firm will receive a refund of $1,615.00 less any outstanding charges and fees.

B. All portable meters must be read or usage reported monthly and charged a standard inside commercial water rate based on the meter size plus a $30.00 monthly processing fee. It is the responsibility of the customer to bring the meter into the Customer Service or Meter Reading Office to be read or to email the meter shop a photo of the face of the meter showing the reading and register number.

C. Under special circumstances that include semi-permanently installed meters, and upon notification of the location of the meter, the City will read the meter on site. If the customer fails to contact the City to request the meter to be read on a monthly basis, the meter shall be returned to the City and the customer shall be required to pay the hydrant meter charge of $285.00 and any additional outstanding sums in order to renew service.

D. Any damage to a portable meter will be addressed in accordance with Section 74-36(b) of the Code of Ordinances.

E. The account holder is responsible for all usage charges regardless of who may have used the water.

Section 7. Account Service Charges

A. There will be a $45.00 service charge for a new account for water service where connection to the water system and installation of a meter has previously been made. This charge is not applicable to the original connection to the water system and installation of a meter. A credit of $30.00 will be applied for all customers who enroll in automatic bank draft (autopay) and paperless billing.

B. There will be a $45.00 service charge for a reconnect to turn-on water where connection to the water system and installation of a meter has previously been made. This charge is not applicable to the original connection to the water system and installation of a meter.

C. There will be an $115.00 service charge for a new account or reconnect requiring unscheduled service after regular business hours as defined in subsection 8.B. below, or service on the same day to turn on water where connection to the water system and installation of a meter have previously been made.

D. If more than one (1) meter exists at a single location (such as meters for reclaimed water), only one (1) service charge shall apply per service call.

E. All service charges on an unpaid balance will be computed as if total consumption occurred during the first month after the date the meter was previously read.

F. As defined in Section 812.14 of the Florida Statutes or Section 74-40 of the Code of Ordinances, tampering with a utility meter is prohibited. The fine amount for tampering in violation of Section 74-40 shall be three times the amount of the service plus $115.00.

G. A delinquent fee of $45.00 shall be assessed on all bills paid later than 20 days after the due date whether or not service has been interrupted.

Section 8. Extraordinary Service Call Charges

A. Extraordinary service calls outside of regular maintenance (for example, locating a meter covered during grading or sodding on the property, unplugging sewer stoppages, or repairing damages attributable to customer activity) shall require a minimum $45.00 service charge. Additionally, the customer will be billed for the cost of regaining access to the meter and restoring service, and for any damage to the meter or utility system caused by building, construction or other activity on the property or any other reason.

B. Extraordinary service calls outside of regular maintenance requiring service on Saturdays, Sundays, holidays or after 3:00 p.m., Monday through Friday shall require a $115.00 service charge together with the additional charges set forth in subsection A. of this Section.

C. Service charges for extraordinary service calls related to temporary utility reconnection for home inspection shall be paid in advance of the service call. Notice of temporary reconnection shall be provided to the City at least twenty-four (24) hours in advance. Temporary utility reconnection service shall not exceed four (4) hours in duration during the hours of 10 a.m. to 3:30 p.m.

Section 9. Meter Test Charges

A. Bench Test

There shall be a $115.00 service charge for customers requesting a meter bench test for accuracy on a 3/4-inch meter. All other bench tests are to be billed at cost. If the meter is found to be substantially inaccurate, this charge will not be assessed. Substantially inaccurate shall be construed to mean a deviation greater than two and one-half percent (2-1/2%) from perfect registration.

B. Meter Check – At Service Location

There will be a $30.00 service charge for a customer ordered meter check after information has been provided regarding consumption. If the reading is found to be in error or the meter is not functioning properly then this charge will not be assessed.

Section 10. Swimming Pool Service Charges

To avoid excessive sewer charges when filling swimming pools where sewer service is provided by the City of Port Orange, a credit against the sewer charge may be given for the amount of water used to fill the swimming pool when requested within twelve months of the pool being filled in accordance with Section 2-240 of the Code of Ordinances.

Section 11. Backflow Inspection/Testing Charge

All owners of non-single-family backflow prevention devices connected to the City's potable water system are required to inspect and test these devices annually using a licensed professional in accordance with Section 74-249 of the Code of Ordinances. Certified test results are to be provided to the City immediately thereafter. There shall be a monthly charge of $3.33 for inspection and testing of each single-family residential backflow prevention device by the City.

Section 12. Minimum Tapping Charges

The following minimum charges shall apply for approved taps into existing pressure mains and/or sewer manhole coring (potable water main, sewer force main, reclaimed water main, and gravity sewer):

TAP SIZE		PRESSURE MAIN	SEWER MANHOLE CORING
1	inch	$ 300.00	N/A
2	inch	430.00	N/A
4	inch	705.00	$ 805.00
6	inch	705.00	805.00
8	inch	705.00	805.00
10	inch	775.00	1,055.00
12	inch	840.00	1,355.00

The above charges do not include jacking and boring, crossing of City streets, related restoration, permitting, and valves and/or related parts. If extenuating circumstances exist, additional tapping charges may apply.

Section 13. Fire Hydrant Maintenance Charges

A. There shall be a monthly maintenance charge of $10.00 for each privately owned fire hydrant located within the City limits and outside of public right-of-way or public utility easements.

B. There shall be a monthly maintenance charge of $12.50 for each privately owned fire hydrant located outside the City limits and outside of public right-of-way or public utility easements when served by the City's water distribution system.

Section 14. Fire Sprinkler System Charges

A. Single-Family Residential and Multi-Family Residential

1. Fire sprinkler systems with demand requiring a service size of two inches (2”) or smaller, when combined with domestic water system demand, shall utilize one (1) standard meter connection. Monthly charges shall be billed as provided in Section 15 and Section 16 of this resolution.

2. Fire sprinkler systems requiring a service size larger than two inches (2”) may have a connection common with the domestic water system or a separate connection. If the fire sprinkler connection line is metered, monthly charges shall be billed as provided in Section 15 and Section 16 of this resolution. If the fire sprinkler connection is unmetered, a monthly charge shall be billed as provided in subsection D. of this Section.

B. Motel, Hotel, Commercial and Industrial

Fire sprinkler systems may have a connection common with the domestic water system or a separate connection. If the domestic fire sprinkler connection is metered, monthly charges shall be billed as provided in Section 15 and Section 16 of this resolution. If the fire sprinkler connection is unmetered, a monthly charge shall be billed as provided in subsection D. of this Section.

C. New Fire Sprinkler Service Installations

Charges for providing fire sprinkler service shall be determined by the work necessary for a complete installation and shall be based on the applicable provisions of Section 3 and Section 12 of this resolution. The required backflow prevention device shall be charged for annual testing in accordance with Section 11.

D. Monthly Charges for Unmetered Fire Sprinkler Systems

The following charges shall apply for all unmetered water sprinkler systems for fire protection; and billed monthly as follows:

SERVICE SIZE	INSIDE CITY	OUTSIDE CITY
2 inch	$ 4.62	$ 5.78
3 inch	8.66	10.83
4 inch	14.44	18.05
6 inch	28.88	36.10
8 inch	46.20	57.75
10 inch	66.41	83.01
12 inch	124.16	155.20

PART C – WATER AND SEWER CONSUMPTION CHARGES

Section 15. Schedule of Monthly Water Charges

The following monthly charges shall apply for the use, or availability for use, of the water service system of the City based on consumption as shown by monthly meter readings. If connection is required pursuant to Section 74-31of the Code of Ordinances, water service is deemed available for use.

A. Residential

1. Inside the City limits of Port Orange, the minimum monthly charges shall be $10.17 for each unit plus usage billed as follows:
2.

Usage:		
Block 1	(0 – 2,000 gallons)	$ 1.52 per thousand gallons
Block 2	(2,001 – 6,000 gallons)	3.99 per thousand gallons
Block 3	(6,001 – 12,000 gallons)	5.43 per thousand gallons
Block 4	(12,001 – 18,000 gallons)	6.88 per thousand gallons
Block 5	(18,001 + gallons)	11.01 per thousand gallons

Non-connected customers will be charged the minimum monthly charge.

3 Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection A.1. or A.2. above pursuant to s. 180.191, Florida Statutes.

4. Non-connected customers will be charged the minimum monthly charge.

B. Multi- Family Residential – (Apartment, Condominium, or Time-share Resort using a public or private utility system with Master Meter).

1. Inside the City limits of Port Orange, the minimum monthly charge shall be $10.17 for each equivalent living unit plus usage billed at $3.30 per thousand gallons.

2. Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge set forth in subsection B.1. above pursuant to s. 180.191, Florida Statutes.

3. The total number of Equivalent Living Units shall be calculated in accordance with Section 74-1 of the Code of Ordinances and the Florida Building Code. Buildings with master meters will be billed, as described in subsections B.1. or B.2. of this Section, on the unit basis after the Certificate of Occupancy is issued.

4. Multi-family residential properties with individual meters shall be billed at the single-family rates established in subsection 15.A.

C. Campground and Recreational Park including Private Utility Systems

1. Inside the City limits of Port Orange, the minimum monthly charge shall be $10.17 for each equivalent living unit plus usage billed at $ 3.30 per thousand gallons.

2. Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection C.1. above pursuant to s. 180.191, Florida Statutes.

3. The total number of Equivalent Living Units shall be calculated in accordance with Section 74-1 of the Code of Ordinances and the Florida Building Code. Buildings with master meters will be billed, as described in subsections C.1. or C.2. of this Section, on the unit basis after the Certificate of Occupancy is issued.

D. Motel, Hotel, Commercial and Industrial (to include water only accounts)}

1. Inside the City limits of Port Orange, the minimum monthly charge shall be determined by the meter size as set forth on the following schedule:

METER SIZE	MONTHLY CHARGE
3/4 inch	$ 10.17
1 inch	16.95
1 1/2 inch	33.91
2 inch	54.25
3 inch	101.72
4 inch	169.54
6 inch	339.08
8 inch	542.52
10 inch	779.87

In addition to the minimum monthly charge, each account shall be billed for usage at $3.30 per thousand gallons.

2. Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection D.1. above pursuant to s. 180.191, Florida Statutes.

E. Multi- Family Residential (Mobile Home Parks and Manufactured Home Parks) using a public or private utility system with Master Meter.

1. Inside the City limits of Port Orange, the minimum monthly charge shall be $10.17 for each unit plus usage billed as follows:

Usage		
Block 1	(0 – 2,000 gallons)	$ 1.52 per thousand gallons
Block 2	(2,001 – 6,000 gallons)	3.99 per thousand gallons
Block 3	(6,001 – 12,000 gallons)	5.43 per thousand gallons
Block 4	(12,001 – 18,000 gallons)	6.88 per thousand gallons
Block 5	(18,001+ gallons)	11.01 per thousand gallons

2. Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection E.1. above pursuant to s. 180.191, Florida Statutes. .

F. Town of Ponce Inlet Wholesale Water Rates

The Town of Ponce Inlet shall be charged a minimum rate of $70.00 per month per Master meter, plus usage billed at $4.31 per thousand gallons.

Section 16. Schedule of Monthly Sewer Charges

The following monthly charges shall apply for the use, or availability for use, of the sanitary sewage facilities of the City. Charges shall be based on consumption recorded on an approved water or sewer meter.

A. Residential

1. Inside the City limits of Port Orange, the minimum monthly charge shall be $12.37 for each unit plus usage billed at $4.60 per thousand gallons for 0 – 12,000 gallons. Usage over 12,000 gallons will not be billed. Non-connected customers shall be billed a minimum monthly availability charge of $12.37. Each customer connected to sewer, but not connected to water shall be billed a monthly charge of $30.77.

2. Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge availability charge and usage charges set forth in subsection A.1. above pursuant to s. 180.191, Florida Statutes.

B. Multi-Family Residential (Apartment, Condominium, or Time-Share Resort using a public or private utility system with Master Meter)

1. Inside the City limits of Port Orange, the minimum monthly charge shall be $12.37 for each unit plus usage billed at $4.60 per thousand gallons.

2. Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection B.1. above pursuant to s. 180.191, Florida Statutes.

3. The total number of Equivalent Living Units shall be calculated in accordance with Section 74-1 of the Code of Ordinances and the Florida Building Code. Buildings with master meters will be billed, as described in subsections B.1. or B.2. of this Section, on the unit basis after the Certificate of Occupancy is issued.

C. Campground and Recreational Park to include Private Utility Systems

1. Inside the City limits of Port Orange, the minimum monthly charge shall be $12.37 for each equivalent full time or short term unit, plus usage billed at $4.60 per thousand gallons.

2. Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection C.1. above pursuant to s. 180.191, Florida Statutes.

3. The total number of Equivalent Living Units shall be calculated in accordance with Section 74-1 of the Code of Ordinances and the Florida Building Code. Buildings with master meters will be billed, as described in subsections C.1. or C.2. of this Section, on the unit basis after the Certificate of Occupancy is issued.

D. Motel, Hotel, Commercial and Industrial

1. Inside the City limits of Port Orange, the minimum monthly charge shall be determined by the meter size as set forth on the following schedule, plus usage billed at $4.60 per thousand gallons:

MINIMUM MONTHLY CHARGE:

3/4”	meter	$ 12.37
1”	meter	20.62
1 1/2”	meter	41.24
2”	meter	65.99
3”	meter	123.73
4”	meter	206.21
6”	meter	412.43
8”	meter	659.88
10”	meter	948.58
Non-Connected		12.37

2. Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection D.1. above pursuant to s. 180.191, Florida Statutes.

E. Multi-Family Residential (Mobile Home Parks and Manufactured Home Parks) using a public or private utility system with Master Meter.

1. Inside the City limits of Port Orange, the minimum monthly charge shall be $12.37 for each unit, plus usage billed at $4.60 per thousand gallons.

2. Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection E.1. above pursuant to s. 180.191, Florida Statutes.

F. Septic Haulers

Direct disposal at the reclaimed water plant shall not be permitted under any circumstances, except where the said septic hauler is working under contract with and on behalf of the City of Port Orange. In such instances, charges shall be defined in the contract.

G. City of Daytona Beach Shores Wholesale Sewer Rates

The City of Daytona Beach Shores shall be charged usage at $4.05 effective January 1, 2024 per thousand gallons of untreated sewage flow.

Section 17. Minimum Billing for Partial Monthly Service

The minimum monthly water and sewer utility charges shall apply to all accounts with service availability. Minimum monthly charges shall be prorated during the initial and final month of service.

Section 18. Voluntary Suspension of Service & Minimum Charges to Vacate Developed Properties

The minimum monthly water and sewer utility charges shall not be suspended during vacation periods or such periods of time that a property is vacated. In order to prevent unauthorized water usage while a customer is on vacation (for a minimum of three months) the customer may request that the City lock-off the meter at no cost to the customer. The customer will not be required to pay a service charge if a request is received the day prior to the need to resume service.

Inactive accounts for vacant lots or spaces in mobile home parks or private utility systems having master meters, when such lots or spaces are billed separately, shall have the minimum monthly charges assessed to the property owner.

Section 19. Reclaimed Water System Charges

A. Monthly Charges

Monthly charges begin after connection or reconnection to the reclaimed water system. The following monthly charges shall apply for the connection to and use of the reclaimed water system of the City based on the meter size and consumption as shown by monthly meter readings to have been delivered. The monthly charges shall include a minimum charge as determined by the meter size plus usage charges billed as set forth:

RECLAIMED WATER BLOCK RANGES ARE AS FOLLOWS:

METER SIZE		BLOCK 1	BLOCK 2	BLOCK 3
3/4	inch	0 – 12,000	12,001 – 18,000	18,001+
1	inch	0 – 20,000	20,001 – 30,000	30,001+
1 1/2	inch	0 – 40,000	40,001 – 60,000	60,001+
2	inch	0 – 64,000	64,001 – 96,000	96,001+
3	inch	0 – 120,000	120,001-180,000	180,001+
4	inch	0 – 200,000	200,001 – 300,000	300,001+
6	inch	0 – 400,000	400,001 – 600,000	600,001+
8	inch	0 – 640,000	640,001 – 960,000	960,001+
10	inch	0 – 920,000	920,001 – 1,380,000	1,380,001+

1. Inside the City

MINIMUM MONTHLY CHARGE (PER ACCOUNT):

3/4”	meter	$ 9.12
1”	meter	15.20
1 1/2”	meter	30.41
2”	meter	48.65
3”	meter	91.22
4”	meter	152.03
6”	meter	304.07
8”	meter	486.50
10”	meter	699.34

Each customer connected to the reclaimed system shall be charged the minimum monthly charge regardless of use.

USAGE CHARGES:

Block 1	$ 0.23	per thousand gallons
Block 2	0.41	per thousand gallons
Block 3	0.46	per thousand gallons

2. Outside the City

Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection A.1. above pursuant to s. 180.191, Florida Statutes.

B. INTERRUPTIBLE SERVICE RATE

Customers that have an alternate water source on site for alternate irrigation water supply shall be eligible for an interruptible service rate. Upon approval by the Public Utility Director or the designee, the monthly charges for this rate shall include a minimum

charge determined by the meter size as set forth on the schedule in subsection A. of this Section, plus usage billed at $0.23 per thousand gallons inside the City and $0.29 per thousand gallons outside the City. Service under this category may be interrupted at any time by the City.

Section 20. Irrigation/Sprinkler Charges

Monthly charges begin after connection or reconnection of an irrigation/sprinkler meter. The following monthly charges shall apply for the use of the water system of the City based on the meter size and consumption as shown by monthly meter readings. The monthly charges shall include a minimum charge as determined by the meter size plus usage charges billed as set forth.

A. Residential

Inside the City limits of Port Orange, the minimum monthly charges shall be billed as follows:

METER SIZE		MONTHLY CHARGE
3/4	inch	$ 10.17
1	inch	16.95
1 1/2	inch	33.91
2	inch	54.25

Usage shall be charged at $5.39 per thousand gallons.

Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection A. above pursuant to s. 180.191, Florida Statutes.

B. Multi-Family Residential – (Apartment, Condominium, or Time-Share Resort and Mobile Home Park using a public or private utility system with Master Meter).

Inside the City limits of Port Orange, the minimum monthly charge shall be as follows:

MINIMUM MONTHLY CHARGE (PER ACCOUNT):		
3/4”	meter	$ 10.17
1”	meter	16.95
1 1/2”	meter	33.91
2”	meter	54.25
3”	meter	101.72
4”	meter	169.54
6”	meter	339.08
8”	meter	542.52
10”	meter	779.87

Usage shall be charged at $5.39 per thousand gallons.

Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection B. above pursuant to s. 180.191, Florida Statutes.

C. Motel, Hotel, Commercial and Industrial

Inside the City limits of Port Orange, the minimum monthly charge shall be determined by the meter size as set forth on the following schedule:

METER SIZE	MONTHLY CHARGE
3/4 inch	$ 10.17
1 inch	16.95
1 1/2 inch	33.91
2 inch	54.25
3 inch	101.72
4 inch	169.54
6 inch	339.08
8 inch	542.52
10 inch	779.87

In addition to the minimum monthly charge, each account shall be billed for usage at $5.39 per thousand gallons.

Outside the City limits of Port Orange, a surcharge of 25% shall be added to the minimum monthly charge and usage charges set forth in subsection C. above pursuant to s. 180.191, Florida Statutes.

PART D– MISCELLANEOUS CHARGES AND ADJUSTMENTS

Section 21. Collections Process and Delinquent Charges

A. Any account that is sent to collections will be charged a collection fee of $45.00.

B. Any account that has been processed for a lien or satisfaction of lien will be charged the processing fees charged by Volusia County plus an additional $45.00 City administration fee.

C. A delinquent fee of $45.00 shall be assessed on all bills paid later than 20 days after the due date whether or not service has been interrupted.

Section 22. Account Adjustments

A. Increases in charges to address under billing resulting solely from the City's error will be applied prospectively only. Credits to customer accounts due to overbilling

resulting solely from the City's error will be refunded to the maximum extent required by law.

Section 23. Rate Review

The City Council shall review and assess the rates established herein in accordance with the requirements of outstanding bond resolution and covenants contained therein.

Section 24. Severability

If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared severable.

Section 25. Repeal of Conflicting Resolutions

All resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed to the extent of such conflict. This Resolution shall supersede Resolution No. 17-21.

Section 26. Effective Date

This resolution shall become effective for all bills rendered after January 1, 2024, except for the fees set forth in Part A which shall have an effective date of April 1, 2024.

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Robin L. Fenwick, MMC, City Clerk

Adopted on the _____ day of _____, 2023

Reviewed and Approved: _____
Matthew J. Jones, City Attorney

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (C10) Resolution No. 23-60 - Budget Amendment - FY2022 - 2023 Final Year End True-Up

DEPARTMENT: Finance

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve Resolution No. 23-60.

SUMMARY: The year-end budget true-up is needed to amend the Fiscal Year 2022-2023 budget for those funds which vary from the originally adopted / amended budget. This closes out the Fiscal Year 2022-23 budget as part of the requirements of the Florida Statute.

The vast majority of the amendments are necessary for one of the following reasons:

- Accrual of revenues and expenses in the appropriate fiscal period of October 1, 2022 through September 30, 2023
- Variations between budgeted (estimated) and actual expenditures and revenues
- 2022-2023 agenda items with fiscal impact that have been rolled into the FY2023-2024 budget, such as capital outlay and capital improvement projects.

Part of the normal course of operations at fiscal year-end is the accrual of revenues and expenses. The accruals are necessary for aligning revenues and expenses with the fiscal period to which they relate. It is also typical for some variances between actual and budgeted expenses and revenues to require budget adjustments. Furthermore, over the course of the fiscal year, various agenda items are approved by the Council that require amending the budget. This resolution formalizes the fiscal impact of those actions.

The requested changes amend the budgeted revenues and expenditures of Fiscal Year 2023 within the time allowed by Florida Statute.

The capital outlay and projects that will be completed in Fiscal Year 2023-2024 will be an amendment to the current year's budget by Resolution No. 23-61 that is also proposed for Council consideration as part of the November 14 agenda.

Staff requests the Council amend the Fiscal Year 2022-2023 budget by revising the

budget in total pursuant to itemization contained in Exhibit "A" of the Resolution.

PRESENTER: John McKinney

ATTACHMENTS:

1.	Budget Resolution No. 23-60 w exhibit	Budget Resolution No. 23-60 w exhibit.pdf

John McKinney	Created/Initiated - 11/7/2023
John McKinney	Approved - 11/7/2023
Matthew Jones	Approved - 11/7/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

RESOLUTION NO. 23-60

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, PERTAINING TO FINAL YEAR END BUDGET ADJUSTMENTS FOR FISCAL YEAR 2022-23; PROVIDING APPROVAL FOR ADJUSTMENTS OF 2022-2023 BUDGET ADJUSTMENTS; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 21, 2022, the City of Port Orange, adopted Resolution 22-30 approving the City's total operating and capital budgets for Fiscal Year 2022-23; and

WHEREAS, the City of Port Orange adopted Resolution 22-32 on October 4, 2022; Resolution 22-38 on November 15, 2022; Resolution 23-09 on February 7, 2023; Resolution 23-17 on May 16, 2023; Resolution 23-27 on August 1, 2023; and each amending the total operating budget for Fiscal Year 2022-23; and

WHEREAS**,** in order to recognize unanticipated revenues and expenditures, it is necessary to make adjustments to the City's 2022-23 operating budget.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. Approval of 2022-2023 Budget Adjustments. The City's 2022-23 Operating Budget is hereby adjusted as set forth in **Exhibit "A"** attached hereto. As applicable, the transfer of funds may be made from any legally acceptable source.

Section 2. The budget items adopted in the preceding section shall govern the expenditures relating to such items for the City during the ensuing fiscal year effective October 1, 2022 through September 30, 2023.

Section 3. Supplemental appropriations, reductions of appropriations, emergency appropriations, and interdepartmental transfers of appropriations may be affected by the City Council and the City Manager as deemed necessary in strict compliance with the procedures specified in Chapter

2, Article VI, Division 3, Code of Ordinances, City of Port Orange, Florida.

Section 4. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

Section 5. This resolution shall become effective immediately upon adoption.

_____

MAYOR DONALD O. BURNETTE

ATTEST:

_____

Robin Fenwick, MMC, City Clerk

Adopted on the _____ day of _____

Reviewed and Approved: _____

Matthew J. Jones, City Attorney

Exhibit "A"

AMENDED BUDGET FISCAL YEAR 2022 - 23

Fund	Description	Resolution 22-30	Resolution 22-32	Resolution 22-38	Resolution 23-09	Resolution 23-17	Resolution 23-27	Resolution 23-60	Amended Budget
001	General	48,601,261	2,000,000	2,117,105	9,412,895	445,652	280,000	(5,636,000)	**57,220,913**
010	National Opioid Litigation	-	-	-	37,903	-	-	(37,903)	**-**
019	Federal Disaster Funds	9,981,987	2,000,000	5,500,000	(9,981,987)	-	61,000	178,000	**7,739,000**
102	Tax Increment - Eastport	416,282	-	-	-	-	-	-	**416,282**
103	Tax Increment - Town Center	430,819	-	-	-	-	-	(170,454)	**260,365**
106	Recreational Facilities	235,700	-	1,212	-	-	-	-	**236,912**
109	Building Special Revenue	2,999,775	-	1,053,089	(27)	70,000	-	(1,700,000)	**2,422,837**
110	CDBG Special Revenue	777,846	-	300,000	-	-		(1,077,000)	**846**
199	Grant Special Revenue	286,379	-	285,838	-	-	9,401	(300,000)	**281,618**
214	Debt Srvc GO	901,154	-	-	-	-	-	-	**901,154**
217	Debt Srvc Eastport Tax Note	236,885	-	-	-	-	-	-	**236,885**
218	Debt Srvc Town Center Bonds	402,609	-	-	-	-	-	-	**402,609**
220	Debt Srvc Bonds	1,150,525	-	-	-	-	-	-	**1,150,525**
301	Capital Projects	2,826,909	-	2,957,971	131,048	-	-	(5,130,000)	**785,928**
306	Transp Cap Projects	150,250	-	150,250	-	-	-	(150,000)	**150,500**
311	Fire Impact Fee	448,000	-	-	-	-	-	(446,000)	**2,000**
312	Transp Impact Fee	551,696	-	770,717	-	-	-	(740,000)	**582,413**
317	General Cap Rplcmnt	11,037,097	-	4,719,501	650,714	254,857	-	(15,580,000)	**1,082,169**
401	Water / Sewer	29,135,000	-	8,435,902	-	-	-	(8,989,000)	**28,581,902**
403	W / S R&R	15,560,000	-	31,996,147	4,742,045	4,058,000	38,250	(51,000,000)	**5,394,442**
405	W / S Impact Fee	165,000	-	5,830,838	-	-	-	(5,000,000)	**995,838**
410	Solid Waste	9,187,000	-		2,420	-	-	-	**9,189,420**
412	Stormwater Utility	5,703,074	-	2,391,601	55,607	25,100	36,744	(3,160,000)	**5,052,126**
413	Stormwater Capital	2,110,640	-	2,467,796	-	-	-	(4,250,000)	**328,436**
414	Drainage Bond Sinking	699,004	-	-	-	-	-	-	**699,004**
416	Wetland Mitigation	53,945	-	-	(47)	-	-	-	**53,898**
417	Series 2012 Water and Sewer Refunding Bond	-	-	-	-	-	-	4,665,000	**4,665,000**
418	SRF Debt Service	1,698,982	-	-	-	-	-	-	**1,698,982**
420	Forestry	397,004	-	135,000	12,717	-	-	(300,000)	**244,721**
450	Golf Course Operating	1,898,806	-	42,031	(12,879)	-	-	(100,000)	**1,827,958**
501	Information Technology	2,686,580	-	48,728	293,395	-	-	(500,000)	**2,528,703**
503	Vehicle Maintenance	1,296,831	-	-	(431)	82,698	115,000	-	**1,494,098**
504	Risk Management	2,419,833	-	-	-	-	-	-	**2,419,833**
505	Lease & Replacement	2,893,815	-	1,846,545	(60,264)	-	10,000	(1,900,000)	**2,790,096**
506	Building Maint	2,620,347	-	554,858	(67)	-	-	-	**3,175,138**
508	Loan Pool	179,509	-	-	-	-	-	(170,454)	**9,055**
606	Police Benefit Trust	4,900	-	-	-	-	-	-	**4,900**
607	Police Forfeiture	62,000	-	232,772	-	-	-	(285,000)	**9,772**
611	Recreation Impact Fee	27,000	-	384,462	-	-	-	(330,000)	**81,462**
615	Police Education Trust	10,000	-	-	-	-	-	-	**10,000**
621	Recreation Scholarship	27,300	-	2,300	-	-	-	-	**29,600**
625	Federal Police Forfeiture	50,000	-	-	-	-	-	-	**50,000**
	Grand Total:	**160,321,744**	**4,000,000**	**72,224,663**	**5,283,042**	**4,936,307**	**550,395**	**(102,108,811)**	**145,207,340**

Exhibit "A" DETAIL FOR RES. 23-60
STAFF RECOMMENDED YEAR END ADJUSTMENTS

FUND	ACCOUNT DESCRIPTION		PROPOSED ADJUSTMENT	Description
GENERAL FUND - 001				
	APPROPRIATED FUND BALANCE		(8,231,530)	PRIOR YEAR REVENUE
	UTILITY SERVICE TAX - ELECTRICITY		900,000	REVENUE MORE THAN ANTICIPATED
	FRANCHISE FEE - ELECTRICITY		320,000	REVENUE MORE THAN ANTICIPATED
	STATE REVENUE SHARING		405,530	REVENUE MORE THAN ANTICIPATED
	AMBULANCE TRANSPORT REVENUE		400,000	REVENUE MORE THAN ANTICIPATED
	APPLICATION FEE REVENUE		350,000	REVENUE MORE THAN ANTICIPATED
	INTEREST		600,000	INTEREST RATE INCREASES
	TRANSFER IN - TRANSFER FROM FUND 317		(380,000)	PROJECTS ROLLED FORWARD
		REVENUES	(5,636,000)	
	OTHER PROFESSIONAL SERVICES		(500,000)	SOFTWARE SUPPORT SERVICES TO BE USED IN FY24
	VEHICLE MAINTENANCE/REPAIRS		175,000	EXPENSES MORE THAN ANTICIPATED
	PERSONNEL COST		(1,700,000)	OPEN POSITION COST
	CAPITAL OUTLAY		(2,300,000)	PURCHASES POSTPONED TO FY24
	DEBT		75,000	FIRE TRUCK AND TRANSPORT DEBT
	TRANSFER OUT - TO FUND 317		(2,625,000)	PROJECTS ROLLED FORWARD
	TRANSFER OUT - TO FUND 301		(1,000,000)	PROJECTS ROLLED FORWARD
	TRANSFER OUT - TO FUND 413		(650,000)	PROJECTS ROLLED FORWARD
	TRANSFER OUT - TO FUND 450		(100,000)	PROJECTS ROLLED FORWARD
	TRANSFER OUT - TO FUND 019		(1,261,000)	ADJUST HURRICANE IAN AND NICOLE TO ANTICIPATED AMOUNTS
		EXPENDITURES	(5,636,000)	
NATIONAL OPIOID LITIGATION SETTLEMENT - 010				
	GENERAL REVENUES		(37,903)	LUCAS CPR DEVICES ORDERED, NOT RECEIVED
		REVENUES	(37,903)	
	CAPITAL OUTLAY		(37,903)	LUCAS CPR DEVICES ORDERED, NOT RECEIVED
		EXPENDITURES	(37,903)	
FEDERAL DISASTER - 019				
	FEDERAL GRANT REVENUE		1,439,000	ADJUST HURRICANE IAN AND NICOLE TO ANTICIPATED AMOUNTS
	TRANSFER IN - TRANSFER FROM FUND 001		(1,261,000)	ADJUST HURRICANE IAN AND NICOLE TO ANTICIPATED AMOUNTS
		REVENUES	178,000	
	OTHER CONTRACTED SERVICES		6,178,000	ADJUST HURRICANE IAN AND NICOLE TO ANTICIPATED AMOUNTS
	BUDGET CONTINGENCY		(6,000,000)	ADJUST HURRICANE IAN AND NICOLE TO ANTICIPATED AMOUNTS
		EXPENDITURES	178,000	
TOWN CENTER CRA - 103				
	TRANSFER IN - TRANSFER FROM FUND 508		(170,454)	NO TRANSFER FROM LOAN FUND
		REVENUES	(170,454)	
	APPROPRIATED FUND BALANCE		(170,454)	FUND BALANCE FOR DEBT COST
		EXPENDITURES	(170,454)	

COMMUNITY DEVELOPMENT BUILDING - 109			
PERMIT FEE REVENUE		560,000	REVENUE MORE THAN ANTICIPATED
APPROPRIATED FUND BALANCE		(2,260,000)	PRIOR YEAR REVENUE
	REVENUES	(1,700,000)	
OTHER CONTRACTED SERVICES		(800,000)	PROJECTS ROLLED FORWARD
CAPITAL EXPENSES		(900,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(1,700,000)	
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) - 110			
FEDERAL GRANT REVENUE		(1,077,000)	PROJECTS ROLLED FORWARD
	REVENUES	(1,077,000)	
OTHER CONTRACTED SERVICES		(79,000)	PROJECTS ROLLED FORWARD
TRANSFER OUT - TRANSFER TO FUND 301		(300,000)	PROJECTS ROLLED FORWARD
TRANSFER OUT - TRANSFER TO FUND 317		(383,000)	PROJECTS ROLLED FORWARD
TRANSFER OUT - TRANSFER TO FUND 413		(315,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(1,077,000)	
GRANT FUND - 199			
LOCAL GRANT REVENUE		(300,000)	PROJECTS ROLLED FORWARD
	REVENUES	(300,000)	
TRANSFER OUT - TRANSFER TO FUND 317		(300,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(300,000)	
CAPITAL PROJECTS FUND - 301			
LOCAL OPTION GAS TAX		150,000	INCREASED TAX REVENUE
TRANSFER IN - TRANSFER FROM FUND 110		(300,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 306		(150,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 312		(740,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 001		(1,000,000)	PROJECTS ROLLED FORWARD
APPROPRIATED FUND BALANCE		(2,640,000)	PROJECTS ROLLED FORWARD
STATE GRANT REVENUE - TPO		(450,000)	PROJECTS ROLLED FORWARD
	REVENUES	(5,130,000)	
TRANSFER OUT - TRANSFER TO FUND 317		(250,000)	PROJECTS ROLLED FORWARD
CAPITAL OUTLAY		(4,880,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(5,130,000)	
TRANSPORTATION CAPITAL PROJECTS - 306			
APPROPRIATED FUND BALANCE		(150,000)	PRIOR YEAR REVENUE
	REVENUES	(150,000)	
TRANSFER OUT - TRANSFER TO FUND 301		(150,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(150,000)	
FIRE IMPACT FEES - 311			
IMPACT FEES		115,000	REVENUE MORE THAN ANTICIPATED
APPROPRIATED FUND BALANCE		(561,000)	PRIOR YEAR REVENUE
	REVENUES	(446,000)	
TRANSFER OUT - TRANSFER TO FUND 317		(446,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(446,000)	

TRANSPORTATION IMPACT FEES - 312			
STATE GRANT REVENUE - TPO		(521,000)	PROJECTS ROLLED FORWARD
APPROPRIATED FUND BALANCE		(219,000)	PRIOR YEAR REVENUE
	REVENUES	(740,000)	
TRANSFER OUT - TRANSFER TO FUND 301		(740,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(740,000)	
GENERAL CAPITAL REPLACEMENT - 317			
INSURANCE REIMBURSEMENT		(180,000)	REC - SABOUNGI INSURANCE REIMBURSEMENT
DEPT PROCEEDS		(8,000,000)	PROJECTS ROLLED FORWARD
APPROPRIATED FUND BALANCE		(2,116,000)	PRIOR YEAR REVENUE
TRANSFER IN - TRANSFER FROM FUND 001		(2,625,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 110		(383,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 199		(300,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 301		(250,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 311		(446,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 413		(450,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 506		(500,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 611		(330,000)	PROJECTS ROLLED FORWARD
	REVENUES	(15,580,000)	
CAPITAL OUTLAY		(15,200,000)	PROJECTS ROLLED FORWARD
TRANSFER OUT - TRANSFER TO FUND 001		(380,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(15,580,000)	
WATER AND SEWER - 401			
CHARGE FOR SERVICES		2,600,000	REVENUE MORE THAN ANTICIPATED
DEBT PROCEEDS		(200,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 417		4,665,000	BOND DEBT FULLY PAID, TRANSFER FUND BALANCE TO 401
APPROPRIATED FUND BALANCE		(16,054,000)	PRIOR YEAR REVENUE
	REVENUES	(8,989,000)	
TRANSFER OUT - TRANSFER TO FUND 403		(6,500,000)	PROJECTS ROLLED FORWARD
TRANSFER OUT - TRANSFER TO FUND 413		(125,000)	PROJECTS ROLLED FORWARD
TRANSFER OUT - TRANSFER TO FUND 506		(64,000)	PROJECTS ROLLED FORWARD
CAPITAL OUTLAY - EQUIPMENT		(2,300,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(8,989,000)	
WATER AND SEWER R&R FUND - 403			
TRANSFER IN - TRANSFER FROM FUND 403		(6,500,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 405		(5,000,000)	PROJECTS ROLLED FORWARD
DEBT PROCEEDS		(15,300,000)	PROJECTS ROLLED FORWARD
STATE GRANT REVENUE		(750,000)	PROJECTS ROLLED FORWARD
APPROPRIATED FUND BALANCE		(23,450,000)	PRIOR YEAR REVENUE
	REVENUES	(51,000,000)	
CAPITAL OUTLAY		(51,000,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(51,000,000)	
WATER & SEWER R&R - 405			
APPROPRIATED FUND BALANCE		(5,000,000)	PRIOR YEAR REVENUE
	REVENUES	(5,000,000)	
TRANSFER OUT - TO FUND 403		(5,000,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(5,000,000)	

STORMWATER UTILITY - 412			
DEBT PROCEEDS		(560,000)	PROJECTS ROLLED FORWARD
APPROPRIATED FUND BALANCE		(2,600,000)	PRIOR YEAR REVENUE
	REVENUES	(3,160,000)	
TRANSFER OUT - TRANSFER TO FUND 413		(3,160,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(3,160,000)	
STORMWATER UTILITY CAPITAL PROJECTS - 413			
TRANSFER IN - TRANSFER FROM FUND 001		(650,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 110		(315,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 401		(125,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 412		(3,160,000)	PROJECTS ROLLED FORWARD
	REVENUES	(4,250,000)	
CAPITAL - STORMWATER IMPROVEMENTS		(3,800,000)	PROJECTS ROLLED FORWARD
TRANSFER OUT - TRANSFER TO FUND 317		(450,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(4,250,000)	
WETLAND MITIGATION - 416			
WETLAND FEE REVENUE		516,000	REVENUE MORE THAN ANTICIPATED
APPROPRIATED FUND BALANCE		(516,000)	PRIOR YEAR REVENUE
	REVENUES	-	
SERIES 2012 WATER AND SEWER REFUNDING BONDS - 417			
APPROPRIATED FUND BALANCE		4,665,000	BOND DEBT FULLY PAID, TRANSFER FUND BALANCE TO 401
	REVENUES	4,665,000	
TRANSFER OUT - TRANSFER TO FUND 401		4,665,000	BOND DEBT FULLY PAID, TRANSFER FUND BALANCE TO 401
	EXPENDITURES	4,665,000	
FORESTRY MANAGEMENT - 420			
APPROPRIATED FUND BALANCE		(300,000)	PROJECTS ROLLED FORWARD
	REVENUES	(300,000)	
CAPITAL OUTLAY - EQUIPMENT		(300,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(300,000)	
GOLF COURSE - 450			
TRANSFER IN - TRANSFER FROM FUND 001		(100,000)	PROJECTS ROLLED FORWARD
	REVENUES	(100,000)	
CAPITAL OUTLAY		(100,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(100,000)	
VEHICLE MAINTENANCE - 503			
APPROPRIATED FUND BALANCE		(436,000)	PROJECTS ROLLED FORWARD
TRANSFER IN - TRANSFER FROM FUND 401		(64,000)	PROJECTS ROLLED FORWARD
	REVENUES	(500,000)	
TRANSFER OUT - TRANSFER TO FUND 317		(500,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(500,000)	

LEASE & REPLACEMENT - 505			
APPROPRIATED FUND BALANCE		(1,900,000)	CAPITAL PURCHASES ROLLED FORWARD
	REVENUES	(1,900,000)	
CAPITAL OUTLAY		(1,900,000)	CAPITAL PURCHASES ROLLED FORWARD
	EXPENDITURES	(1,900,000)	
LOAN POOL - 508			
APPROPRIATED FUND BALANCE		(170,454)	NO TRANSFER IN FY23
	REVENUES	(170,454)	
TRANSFER OUT - TRANSFER TO FUND 103		(170,454)	NO TRANSFER IN FY23
	EXPENDITURES	(170,454)	
POLICE FORFEITURE TRUST - 607			
APPROPRIATED FUND BALANCE		(285,000)	EXPENSES LESS THAN ANTICIPATED
	REVENUES	(285,000)	
OTHER SUPPLIES		(285,000)	EXPENSES LESS THAN ANTICIPATED
	EXPENDITURES	(285,000)	
RECREATION IMPACT - 611			
APPROPRIATED FUND BALANCE		(330,000)	PROJECTS ROLLED FORWARD
	REVENUES	(330,000)	
TRANSFER OUT - TRANSFER TO FUND 317		(330,000)	PROJECTS ROLLED FORWARD
	EXPENDITURES	(330,000)	

REVENUES	(102,108,811)
EXPENDITURES	(102,108,811)
VARIANCE	-

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (C11) Resolution No. 23-61 - Capital Encumberance and Project Balance Roll forward Budget Amendment for Fiscal Year 2023-2024

DEPARTMENT: Finance

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve Resolution No. 23-61.

SUMMARY: This is the Capital Encumbrance and Project Balance Roll forward budget amendment from Fiscal Year 2023.

Staff requests the Council amend the Fiscal Year 2023-2024 budget by revising the budget in total pursuant to itemization contained in Exhibit "A" of the Resolution.

Highlights of the budget amendments include:

1. The capital encumbrances budget roll from fiscal year 2023 to 2024 for the following items that have not yet been received by the City:

- Lucas CPR Devices
- Fire Engine Pumper
- Storage Barn for Forestry
- Madeline Avenue Land Acquisition
- Police SUVs

2. Prior Year Project remaining budget roll from fiscal year 2023 to 2024 for the following construction projects that have not yet been completed:

- Jackson Street Stormwater Improvements
- Garnsey Water Treatment Plant Generator Replacement
- Water Reclamation Operations Building Expansion
- North Commonwealth Water System Replacement
- City Hall Remodel
- Sewer System Rehab Force Main River Crossing

PRESENTER: John McKinney

ATTACHMENTS:

1.	Budget Resolution No. 23-61 w exhibit	Budget Resolution No. 23-61 w exhibit.pdf

John McKinney	Created/Initiated - 11/7/2023
John McKinney	Approved - 11/7/2023
Matthew Jones	Approved - 11/7/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

RESOLUTION NO. 23-61

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, PERTAINING TO BUDGET ADJUSTMENTS FOR FISCAL YEAR 2023-24; PROVIDING APPROVAL FOR ADJUSTMENTS OF 2023-2024 BUDGET ADJUSTMENTS; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 20, 2023, the City of Port Orange, adopted Resolution 23-42 approving the City's total operating and capital budgets for Fiscal Year 2023-24; and

WHEREAS**,** in order to recognize unanticipated revenues and expenditures, it is necessary to make adjustments to the City's 2023-24 operating budget.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. Approval of 2023-2024 Budget Adjustments. The City's 2023-24 Operating Budget is hereby adjusted as set forth in **Exhibit "A"** attached hereto. As applicable, the transfer of funds may be made from any legally acceptable source.

Section 2. The budget items adopted in the preceding section shall govern the expenditures relating to such items for the City during the ensuing fiscal year effective October 1, 2023 through September 30, 2024.

Section 3. Supplemental appropriations, reductions of appropriations, emergency appropriations, and interdepartmental transfers of appropriations may be affected by the City

Council and the City Manager as deemed necessary in strict compliance with the procedures specified in Chapter 2, Article VI, Division 3, Code of Ordinances, City of Port Orange, Florida.

Section 4. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

Section 5. This resolution shall become effective immediately upon adoption.

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Robin Fenwick, MMC, City Clerk

Adopted on the _____ day of _____

Reviewed and Approved: _____
Matthew J. Jones, City Attorney

Exhibit "A"

AMENDED BUDGET FISCAL YEAR 2023-24

Fund	Description	Resolution 23-42	Resolution 23-61	Amended Budget
001	General Fund	$ 58,759,279	$ 5,312,517	**$ 64,071,796**
010	National Opioid Litigation	38,000	37,471	**75,471**
019	Federal Disaster Funds	982,525	127,117	**1,109,642**
102	Tax Increment - Eastport	539,320	-	**539,320**
103	Tax Increment - Town Center	430,919	-	**430,919**
106	Recreational Facilities	205,700	24,355	**230,055**
109	Building Special Revenue	2,796,525	103,765	**2,900,290**
110	CDBG Special Revenue	375,895	-	**375,895**
199	Grant Special Revenue	91,243	236,376	**327,619**
214	Debt Srvc GO	904,369	-	**904,369**
217	Debt Srvc Eastport Tax Note	233,335	-	**233,335**
218	Debt Srvc Town Center Bonds	402,709	-	**402,709**
220	Debt Srvc Bonds	1,147,125	-	**1,147,125**
301	Capital Projects	3,204,563	4,405,547	**7,610,110**
306	Transportation Capital Projects	150,250	-	**150,250**
311	Fire Impact Fee	35,000	451,293	**486,293**
312	Transportation Impact Fee	1,286,730	647,569	**1,934,299**
317	General Capital Replacement	18,884,610	14,787,002	**33,671,612**
401	Water / Sewer Operating	39,321,045	21,001,737	**60,322,782**
403	Water / Sewer R&R	20,710,000	43,023,993	**63,733,993**
405	Water / Sewer Impact Fee	105,000	3,484,079	**3,589,079**
410	Solid Waste	10,199,179	-	**10,199,179**
412	Stormwater Utility	7,658,762	3,900,403	**11,559,165**
413	Stormwater Capital	2,305,000	3,062,955	**5,367,955**
414	Drainage Bond Sinking	699,004	-	**699,004**
416	Wetland Mitigation	57,305	-	**57,305**
418	SRF Debt Service	784,846	-	**784,846**
420	Forestry	496,932	634,000	**1,130,932**
450	Golf Course Operating	2,742,530	103,400	**2,845,930**
501	Information Technology	4,396,934	25,728	**4,422,662**
503	Vehicle Maintenance	1,430,575	64,673	**1,495,248**
504	Risk Management	2,493,995	-	**2,493,995**
505	Lease & Replacement	3,787,700	1,027,083	**4,814,783**
508	Loan Pool	50,000	-	**50,000**
606	Police Benefit Trust	4,900	-	**4,900**
607	Police Forfeiture	62,000	-	**62,000**
611	Recreation Impact Fee	27,000	-	**27,000**
615	Police Education Trust	10,000	-	**10,000**
621	Recreation Scholarship	27,300	-	**27,300**
625	Federal Police Forfeiture	5,000	-	**5,000**
	Grand Total:	**$ 187,843,104**	**$ 102,461,063**	**$ 290,304,167**

Exhibit "A" DETAIL FOR RES. 23-61
STAFF RECOMMENDED ADJUSTMENTS CAPITAL AND PROJECT ROLL

FUND	ACCOUNT DESCRIPTION	PROPOSED ADJUSTMENT	DESCRIPTION
GENERAL FUND - 001			
	DEBT - MASTER LEASE	1,083,332	PIERCE PUMPER/FIRE ENGINE
	APPROPRIATED FUND BALANCE	4,229,185	PRIOR YEAR RESOURCES
	REVENUES	5,312,517	
	CAPITAL OUTLAY - PUBLIC WORKS	554,549	OBM014 STANDBY POWER GENERATOR REBUILD/REPLACEMENT PO-001474 AND PO-003083
	CAPITAL OUTLAY - PUBLIC WORKS	100,000	OBM202 CITY HALL ELEVATOR R&R
	CAPITAL OUTLAY - PUBLIC WORKS	50,000	OMI203 WOOD BRIDGE R&R FY23
	CAPITAL OUTLAY - PARKS & RECREATION	247,500	QIO201 RE-SOD AND RENOVATIONS TO SPORTS FIELDS
	CAPITAL OUTLAY - PARKS & RECREATION	2,934	QPI204 SCOREBOARD REPLACEMENT
	OTHER SUPPLIES AND EXPENSES - FIRE SERVICES	14,308	ZMI203 FIRE STATION FURNITURE
	MAINTENANCE AND REPAIRS - POLICE	24,421	PO-003175 PURCHASE & INSTALLATION FOR A WATER HEATER
	CAPITAL OUTLAY - FIRE SERVICES	57,414	FIR100 STATION BASED ALERTING SYSTEM
	CAPITAL OUTLAY - FIRE SERVICES	1,083,332	PO-003227 PUMPER/FIRE TRUCK
	TRANSFER OUT TO FUND 106	24,355	FOR YMCA REPAIRS
	TRANSFER OUT TO FUND 317	3,153,704	FOR CIP PROJECTS
	EXPENDITURES	5,312,517	
NATIONAL OPIOID FUND - 010			
	STATE GRANT	37,471	OPIOID FUNDING
	REVENUES	37,471	
	CAPITAL OUTLAY - FIRE SERVICES	37,471	PO-003216 LUCAS CPR DEVICES
	EXPENDITURES	37,471	
FEDERAL DISASTER FUND - 019			
	GRANT	127,117	FEMA FUNDING
	REVENUES	127,117	
	CONTRACTUAL SERVICES - HURRICANE IAN	57,856	PO-002986 RESTORATION TO WASTEWATER PLANT BUILDING DAMAGE
	CONTRACTUAL SERVICES - HURRICANE IAN	7,785	PO-003078 PEGASUS
	CONTRACTUAL SERVICES - HURRICANE IAN	6,396	PO-003079 PEGASUS
	CONTRACTUAL SERVICES - HURRICANE IAN	55,080	PO-003121 MEMORIAL PARK DOCK
	EXPENDITURES	127,117	
RECREATION FACILITY FUND - 106			
	TRANSFER IN FROM FUND 001	24,355	PRIOR YEAR RESOURCES
	REVENUES	24,355	
	MAINTENANCE AND REPAIR - PARKS & RECREATION	24,355	QPC020 YMCA REPAIRS - PO-003095 ROOF REPAIRS FOR THE YMCA
	EXPENDITURES	24,355	

FUND	ACCOUNT DESCRIPTION	PROPOSED ADJUSTMENT	DESCRIPTION
COMMUNITY DEVELOPMENT BUILDING - 109			
	APPROPRIATED FUND BALANCE	103,765	PRIOR YEAR RESOURCES
	REVENUES	103,765	
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	58,765	ZMI057 DIGITAL PLAN REVIEW PO-001832
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	45,000	VEHICLE
	EXPENDITURES	103,765	
GRANT FUND - 199			
	STATE GRANT	236,376	FDOT FUNDING
	REVENUES	236,376	
	TRANSFER OUT TO FUND 317	236,376	XSG200 SUN TRAIL
	EXPENDITURES	236,376	
CAPITAL PROJECTS FUND - 301			
	APPROPRIATED FUND BALANCE	3,757,978	PRIOR YEAR RESOURCES
	TRANSFER IN FROM FUND 312	371,319	OMI036 SIDEWALK BUNDLE
	TRANSFER IN FROM FUND 312	39,000	OMI037 TAYLOR RD/CLYDE MORRIS BLVD INTERSECTION IMPROVEMENTS
	TRANSFER IN FROM FUND 312	35,000	OMI202 SPRUCE CREEK RD. SIDEWALK GAPS AND CURB RAMP REPLACEMENTS
	TRANSFER IN FROM FUND 312	202,250	PNC015 YORKTOWNE NORTH SEGMENT
	REVENUES	4,405,547	
	CAPITAL OUTLAY - PUBLIC WORKS	167,710	OMI001 OAK ST RAILROAD CROSSING
	MAINTENANCE AND REPAIRS - PUBLIC WORKS	396,377	OMI007 SIDEWALK CONSTRUCTION - PO-003002, PO-003003, AND PO-003004
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	35,000	PNC016 EB & WB HERBERT ST TURN LANES @ NOVA RD
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	223,080	PNC024 CLYDE MORRIS BLVD TURN LANE BUNDLE
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	665,811	PNC200 DUNLAWTON AND YORKTOWNE TURN LANE BUNDLE
	CAPITAL OUTLAY - PUBLIC WORKS	800,000	POL205 ROAD RESURFACING AND RECONSTRUCTION
	CAPITAL OUTLAY - PUBLIC WORKS	1,000,000	POL206 TOWN WEST BLVD ROAD RECONSTRUCTION
	CAPITAL OUTLAY - PUBLIC WORKS	350,000	OMI200 CITY CENTER SIDEWALKS
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	371,319	OMI036 SIDEWALK BUNDLE
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	39,000	OMI037 TAYLOR RD/CLYDE MORRIS BLVD INTERSECTION IMPROVEMENTS
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	35,000	OMI202 SPRUCE CREEK RD. SIDEWALK GAPS AND CURB RAMP REPLACEMENTS
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	202,250	PNC015 YORKTOWNE NORTH SEGMENT
	TRANSFER OUT TO FUND 317	120,000	FOR CIP PROJECTS
	EXPENDITURES	4,405,547	
FIRE IMPACT FEES - 311			
	APPROPRIATED FUND BALANCE	451,293	PRIOR YEAR RESOURCES
	REVENUES	451,293	
	TRANSFER OUT TO FUND 317	451,293	FIR200 BURN ROOM
	EXPENDITURES	451,293	

FUND	ACCOUNT DESCRIPTION	PROPOSED ADJUSTMENT	DESCRIPTION
TRANSPORTATION IMPACT FEES - 312			
	APPROPRIATED FUND BALANCE	647,569	PRIOR YEAR RESOURCES
	REVENUES	647,569	
	TRANSFER OUT TO FUND 301	647,569	FOR CIP PROJECTS
	EXPENDITURES	647,569	
GENERAL CAPITAL REPLACEMENT - 317			
	TRANSFER IN FROM FUND 001	3,153,704	PRIOR YEAR REVENUE TRANSFERS
	TRANSFER IN FROM FUND 311	451,293	PRIOR YEAR REVENUE TRANSFERS
	TRANSFER IN FROM FUND 199	236,376	PRIOR YEAR REVENUE TRANSFERS
	TRANSFER IN FROM FUND 301	120,000	PRIOR YEAR REVENUE TRANSFERS
	TRANSFER IN FROM FUND 412	807,449	PRIOR YEAR REVENUE TRANSFERS
	DEBT PROCEEDS	10,018,180	DEBT
	REVENUES	14,787,002	
	CONTRACTUAL SERVICES - COMMUNITY DEVELOPMENT	220,167	AIO200 DOWN UNDER REVITALIZATION
	CAPITAL OUTLAY - POLICE	9,112	ZMI205 P25-P2 POLICE RADIO COMBABILITY PO-001821
	CAPITAL OUTLAY - PUBLIC WORKS	91,030	OBI200 PW ROOF REPAIRS - FLEET BUILDING PO-003151 AND PO-001874
	CAPITAL OUTLAY - PUBLIC WORKS	525,000	OBI201 PUBLIC WORKS REMODEL
	CAPITAL OUTLAY - BUILDING MAINTENANCE	346,690	OBM200 FIRE STATION 74 CEILING AND HVAC REPLACEMENT PO-002981
	CAPITAL OUTLAY - PUBLIC WORKS	43,600	OIO201 POLICE DEPT IMPOUND YARD
	CAPITAL OUTLAY - PUBLIC WORKS	465,522	POL203 RESURFACE PARKING LOT - CITY FACILITIES PO-002416
	CAPITAL OUTLAY - PARKS & RECREATIONS	247,486	QPC074 PLAYGROUND REPLACEMENT PO-003073
	CAPITAL OUTLAY - PARKS & RECREATIONS	250,000	QPC203 REC CENTER GYM FLOOR
	CAPITAL OUTLAY - PARKS & RECREATIONS	1,023,240	QPC202 PARKS OFFICE BUILDING PO-002506
	CAPITAL OUTLAY - BUILDING MAINTENANCE	51,857	PO-003010 FOR POLICE DEPT HVAC
	CAPITAL OUTLAY - FIRE SERVICES	451,293	FIR200 BURN ROOM PO-002918 AND PO-003199
	CAPITAL OUTLAY - COMMUNITY DEVELOPMENT	236,376	XSG200 SUNTRAIL ST JOHN RIVER-TO-SEA LOOP PO-001376
	CAPITAL OUTLAY - STORMWATER	1,407,449	DIP202 CITY CENTER IMPROVEMENTS PO-002388
	CAPITAL OUTLAY - PUBLIC WORKS	7,960,410	OBM008 CITY HALL REMODEL
	CAPITAL OUTLAY - PARKS & RECREATIONS	497,819	QIO203 FLOATING DOCKS ON SOUTHSIDE OF CAUSEWAY PARK
	CAPITAL OUTLAY - PARKS & RECREATIONS	471,241	QPC201 BALLFIELD LAMP REPLACEMENT
	CAPITAL OUTLAY - PARKS & RECREATIONS	488,710	QPI203 REPLACEMENT OF CONCESSION RESTROOM - SPRUCE CREEK RD PARK
	EXPENDITURES	14,787,002	
WATER AND SEWER - 401			
	APPROPRIATED FUND BALANCE	21,001,737	PRIOR YEAR REVENUE
	REVENUES	21,001,737	
	CAPITAL OUTLAY - CUSTOMER SERVICE	1,580,848	WIP200 TYLER ERP
	NON-DISCRETIONARY SUPPLIES AND EXPENSES	89,714	INVENTORY -PO-002428, PO-002799, PO-002938, PO-003050, PO-003066, PO-003096, PO-003105, PO-003131, PO-002443
	CONTRACTUAL SERVICES - WATER AND SEWER	32,360	PO-002598, PO-002742 FOR WATER SUPPLY WORK PLAN
	NON-DISCRETIONARY SUPPLIES AND EXPENSES	3,315	PO-002670 SENSUS TO NAVILINE INTERGRATION
	CONTRACTUAL SERVICES - WATER AND SEWER	3,510	PO-003049 PUBLIC ADMINISTRATION DEVELOPMENT SERVICES/PROJECT MANAGEMENT FEES
	CAPITAL OUTLAY - WATER AND SEWER	29,895	PO-002862 CRANE
	CAPITAL OUTLAY - WATER AND SEWER	11,279	PO-002952 TURF GATOR
	CAPITAL OUTLAY - WATER AND SEWER	73,224	PO-003152 PORTABLE PUMP
	CAPITAL OUTLAY - WATER AND SEWER	2,429	PO-002140 TRUCK DIFFERENCE
	TRANSFER OUT TO FUND 503	64,673	VEHICLE MAINTENANCE LIFT
	TRANSFER OUT TO FUND 403	19,110,490	
	EXPENDITURES	21,001,737	

FUND	ACCOUNT DESCRIPTION	PROPOSED ADJUSTMENT	DESCRIPTION
WATER AND SEWER R&R FUND - 403			
	APPROPRIATED FUND BALANCE	5,000,000	PRIOR YEAR REVENUE
	TRANSFER IN FROM FUND 401	19,110,490	PRIOR YEAR REVENUE TRANSFERS
	TRANSFER IN FROM FUND 405	3,059,079	PRIOR YEAR REVENUE TRANSFERS
	STATE GRANT	750,000	STATE APPROPRIATION, SEWER LINING
	DEBT PROCEEDS	15,104,424	DEBT
	REVENUES	43,023,993	
	CAPITAL OUTLAY - WATER AND SEWER	491,918	MME003 TELEMETRY I&C WASTEWATER
	CAPITAL OUTLAY - WATER AND SEWER	60,310	MME004 TELEMETRY I&C WATER PRODUCTION PO-003150
	CAPITAL OUTLAY - WATER AND SEWER	584,784	SLS002 WRF - REPLACE EXISTING LIFT STATIONS
	CAPITAL OUTLAY - WATER AND SEWER	614,763	SLS004 LIFT STATION REHAB HERBERT & NOVA PO-001403 & PO-001409
	CAPITAL OUTLAY - WATER AND SEWER	633,614	SLS200 OCEANS LIFT STATION REHAB PO-002178
	CAPITAL OUTLAY - WATER AND SEWER	736,411	SLS201 CHRISTIANCY LIFT STATION REHAB PO-002179
	CAPITAL OUTLAY - WATER AND SEWER	1,473,174	URH001 SEWER SYSTEM REHABILITATION - SEWER LINING PO-002901, PO-003132, PO-002837
	CAPITAL OUTLAY - WATER AND SEWER	155,662	SLS203 WILLIAMSON REGIONAL LIFT STATION REHAB PO-003204
	CAPITAL OUTLAY - WATER AND SEWER	250,000	SLS204 SUGAR FOREST LIFT STATION REHAB
	CAPITAL OUTLAY - WATER AND SEWER	1,161,581	SSP002 WATER RECLAMATION FACILITY R&R PO-002812
	CAPITAL OUTLAY - WATER AND SEWER	2,001,992	SSP012 WRF ELECTRIC SYSTEM REPAIR/REPLACEMENT
	CAPITAL OUTLAY - WATER AND SEWER	10,722,141	SSP018 GENERATOR REPLACEMENT PO-002310, PO-002653
	CAPITAL OUTLAY - WATER AND SEWER	960,873	SSP200 WRF FILTER REHAB PO-001570
	CAPITAL OUTLAY - WATER AND SEWER	7,861,086	UBO011 FIELD OPERATIONS NEW FACILITY PO-001401
	CAPITAL OUTLAY - WATER AND SEWER	4,654,895	URP001 WATER SYSTEM REPLACEMENT - NORTH COMMONWEALTH
	CAPITAL OUTLAY - WATER AND SEWER	1,618,178	WRP200 WATER SYSTEM REHAB - 16" WATER MAIN RIVER CROSSING PO-001567
	CAPITAL OUTLAY - WATER AND SEWER	14,566	WWP200 GARNSEY WATER PLANT EXTERIOR PAINTING PO-002735
	CAPITAL OUTLAY - WATER AND SEWER	3,804,424	SLS205 EAST MASTER LIFT STATION PO-002852
	CAPITAL OUTLAY - WATER AND SEWER	550,000	SLS202 LOWES/GATEWAY LIFT STATION REHAB PO-003194
	CAPITAL OUTLAY - WATER AND SEWER	94,196	MPL001 UTILITIES MASTER PLAN PO-002495, PO-001289
	CAPITAL OUTLAY - WATER AND SEWER	363,680	UCP001 ENGINEERING - CITY COST PARTICIPATION
	CAPITAL OUTLAY - WATER AND SEWER	4,215,745	URH003 SEWER SYSTEM REHAB FORCE MAIN RIVER CROSSING PO-001112
	EXPENDITURES	43,023,993	
WATER AND SEWER IMPACT FEE - 405			
	APPROPRIATED FUND BALANCE	3,484,079	PRIOR YEAR REVENUES
	REVENUES	3,484,079	
		425,000	DEVON ST LAND PURCHASE
	TRANSFER OUT TO FUND 403	3,059,079	TRANSFER TO FUND 403 FOR CIP PROJECTS
	EXPENDITURES	3,484,079	
STORMWATER - 412			
	APPROPRIATED FUND BALANCE	3,900,403	PRIOR YEAR REVENUES
	REVENUES	3,900,403	
	CAPITAL OUTLAY - STORMWATER	30,000	EQUIPMENT - CAPITAL
	TRANSFER OUT TO FUND 317	807,449	DIP202 CITY CENTER IMPROVEMENTS PO-002388
	TRANSFER OUT TO FUND 413	3,062,954	PRIOR YEAR REVENUE TRANSFERS
	EXPENDITURES	3,900,403	

FUND	ACCOUNT DESCRIPTION	PROPOSED ADJUSTMENT	DESCRIPTION
STORMWATER UTILITY CAPITAL PROJECTS - 413			
	TRANSFER IN FROM FUND 412	3,062,955	PRIOR YEAR REVENUE TRANSFERS
	REVENUES	3,062,955	
	CAPITAL - STORMWATER IMPROVEMENTS	625,741	DIP073 STORMWATER MASTER PLAN PHASE II PO-003136
	CAPITAL - STORMWATER IMPROVEMENTS	795,489	DIP075 DRAINAGE PIPE R&R PO-002683
	CAPITAL - STORMWATER IMPROVEMENTS	45,000	DIP200 SOUTHWIND STORMWATER POND OUTFALL RETROFIT
	CAPITAL - STORMWATER IMPROVEMENTS	140,000	DIP201 WHITE PL & RIVERSIDE DR DRAINAGE IMPROVEMENTS
	CAPITAL - STORMWATER IMPROVEMENTS	1,346,725	DIP204 JACKSON ST STORMWATER IMPROVEMENTS
	CAPITAL - STORMWATER IMPROVEMENTS	60,000	DIP205 FREEMENVILLE DRAINAGE IMPROVEMENTS
	CAPITAL - STORMWATER IMPROVEMENTS	50,000	DIP206 VIKING DR STORMWATER IMPROVEMENTS
	EXPENDITURES	3,062,955	
FORESTRY MANAGEMENT - 420			
	APPROPRIATED FUND BALANCE	634,000	PRIOR YEAR REVENUES
	REVENUES	634,000	
	CAPITAL OUTLAY - WATER AND SEWER	284,000	CNE201 STORAGE BARN FOR FORESTRY MANAGEMENT EQUIPMENT
	CAPITAL OUTLAY - WATER AND SEWER	350,000	MADELINE AVE LAND ACQUISITION
	EXPENDITURES	634,000	
GOLF COURSE - 450			
	APPROPRIATED FUND BALANCE	103,400	PRIOR YEAR REVENUES
	REVENUES	103,400	
	CAPITAL OUTLAY - GOLF COURSE	103,400	GCR200 ROOF REPLACEMENT MAINTENANCE BARN, PO-003104
	EXPENDITURES	103,400	
INFORMATION TECHNOLOGY - 501			
	APPROPRIATED FUND BALANCE	25,728	PRIOR YEAR REVENUES
	REVENUES	25,728	
	CAPITAL OUTLAY - INFORMATION TECHNOLOGY	25,728	ZMI016 MAINTAIN HARDWARE INFRASTRUCTURE PO-002126
	EXPENDITURES	25,728	
VEHICLE MAINTENANCE - 503			
	TRANSFER IN FROM FUND 401	64,673	PRIOR YEAR REVENUE TRANSFERS
	REVENUES	64,673	
	CAPITAL OUTLAY - VEHICLE MAINTENANCE	64,673	PO-003120 VEHICLE LIFT
	EXPENDITURES	64,673	

FUND	ACCOUNT DESCRIPTION	PROPOSED ADJUSTMENT	DESCRIPTION
LEASE & REPLACEMENT - 505			
	APPROPRIATED FUND BALANCE	1,027,083	PRIOR YEAR REVENUES
	REVENUES	1,027,083	
	OTHER SUPPLIES AND EXPENSES - FIRE SERVICES	3,070	FIR021 RADIO REPLACEMENT
	CAPITAL OUTLAY - POLICE	561,538	PDVEH_WIP POLICE VEHICLES
	CAPITAL OUTLAY - GOLF COURSE	176,778	PO-002587, PO-002588, PO-003031, PO-001994, PO-001967, PO-002618
	CAPITAL OUTLAY - SOLID WASTE	25,436	PO-002928 VEHICLE
	CAPITAL OUTLAY - FIRE SERVICES	56,555	PO-002151 VEHICLE
	CAPITAL OUTLAY - WATER AND SEWER	40,279	PO-002140 VEHICLE FOR UTILITY ADMIN
	CAPITAL OUTLAY - PARKS AND RECREATION	47,209	PO-002143 VEHICLE FOR PARKS
	CAPITAL OUTLAY - WATER AND SEWER	74,498	PO-003153 VEHICLE FOR WATER PRODUCTION
	CAPITAL OUTLAY - CODE ENFORCEMENT	33,473	PO-003205 VEHICLE
		8,247	PO-001838 EMERGENCY LIGHTS FOR PICKUP
	EXPENDITURES	1,027,083	

REVENUES	102,461,063
EXPENDITURES	102,461,063
VARIANCE	-

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (C12) Resolution No. 23-64 - FEMA Flood Mitigation Assistance (FMA) Application to Request Funds to Acquire and Demolish 7 Homes

DEPARTMENT: Community Development

GOAL: 1 - Public Safety; 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Resolution No. 23-64, authorizing the submission of a FEMA Flood Mitigation Assistance grant to acquire and demolish 7 homes and authorizing the City Manager to execute all necessary documents for submission of the application.

SUMMARY: FEMA Flood Mitigation Assistance (FMA) grants are available annually to help communities reduce or eliminate the risk of repetitive flood damage to buildings and structures insured under the National Flood Insurance Program (NFIP). From Fiscal Year (FY) 1996 to FY 2019, FMA obligated over 1.5 billion dollars to mitigate over 8,000 properties insured by the National Flood Insurance Program.

FMA funding is available for structure acquisition and demolition projects. FMA is a cost reimbursement grant with varying cost share percentages based on the number of times a structure has flooded. Over the past few weeks, staff has received interest from six (6) additional property owners about acquisition and demolition under FEMA FMA. Resolution No. 23-53, which was approved by the City Council on October 17, 2023, included approval to submit an application to acquire one (1) flood-prone home. Resolution No. 23-64 will replace Resolution No. 23-53. Resolution No. 23-64 will include approval to submit an application to acquire seven (7) flood-prone homes. All seven (7) flood-prone homes are expected to fall into the 90% federal / 10% non-federal cost share category.

Staff evaluated these seven (7) properties, and acquisition is recommended due to a combination of the low cost and the value of potential stormwater enhancements or improved access to City infrastructure.

The next step of the process is to finalize the FMA application and apply to the Florida Department of Emergency Management (FDEM). Once approved by FDEM, the project application is forwarded to FEMA for consideration. If the project is selected by FEMA and the City chooses to fund the project, the project will require up to a 10% cost contribution from the City. This action does not obligate the City to fund this project, only for staff to apply to FEMA. If this project is selected, the process is estimated to take 1/2-2 years. The total estimated cost to acquire the seven (7) homes is $2,000,000, of

which the City match is $200,000. If approved, staff will make the necessary designation of fund balance for the acquisition.

Once acquired, the City will be responsible for demolishing the structures, maintaining the properties, and maintaining the use of the properties as open space in perpetuity. FMA deed restrictions state that the properties shall be used only for purposes compatible with open space, recreational, or wetlands management practices; in general, such uses include parks for outdoor recreational activities, nature preserves, unimproved permeable parking lots and other uses consistent with FEMA guidance for open space acquisition. New structures are limited to a public facility that is open on all sides and functionally related to open space use, a public restroom, or a structure that is compatible with the uses described above and approved by the FEMA Regional Director in writing prior to the commencement of the construction of the structure. Any structures built on the properties shall be floodproofed or elevated to the Base Flood Elevation plus one foot of freeboard.

Staff continues to work with affected homeowners to assist as many repetitive loss property owners as possible in applying for mitigation funding. Based on the turnout and interest received from the Informational Workshops held in the Summer of 2023, we anticipate bringing more FEMA FMA applications forward for City Council consideration annually when the application period opens, typically in the fall.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	Resolution No. 23-64 with exhibit	Resolution No. 23-64 with exhibit.pdf

Margaret Tomlinson	Created/Initiated - 10/27/2023
Tim Burman	Approved - 10/27/2023
Shannon Balmer	Approved - 11/1/2023
John McKinney	Approved - 11/1/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

RESOLUTION NO. 23-64

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; AMENDING AND RESTATING RESOLUTION NO. 23-53; APPROVING SUBMISSION OF AN APPLICATION FOR FEDERAL FUNDING UNDER THE FLOOD MITIGATION ASSISTANCE GRANT PROGRAM ("FMA") FOR THE PURPOSE OF STRUCTURE ACQUISITION AND DEMOLITION PROJECTS FOR APPROXIMATELY SEVEN HOMES INSURED UNDER THE NATIONAL FLOOD INSURANCE PROGRAM ("NFIP") AND IDENTIFIED BY THE CITY AS SUBSTANTIALLY DAMAGED BY HURRICANE IAN OR ON THE FEMA REPETITIVE LOSS LIST; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS FOR SAID APPLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City of Port Orange ("City") is participating in a hazard mitigation planning process as established under the Disaster Mitigation Act of 2000; and

WHEREAS, the Volusia County Local Mitigation Strategy ("LMS") Plan is a multi-jurisdictional hazard mitigation plan which includes the City of Port Orange; and

WHEREAS, the Volusia County LMS Plan is updated on a yearly basis and after any major natural disaster event; and

WHEREAS, the Federal Emergency Management Agency ("FEMA") Flood Mitigation Assistance ("FMA") grants are available annually to help communities reduce or eliminate the risk of severe and repetitive flood damage to buildings and structures insured under the National Flood Insurance Program (NFIP); and

WHEREAS, pursuant to Resolution No. 23-53, the City Council of the City of Port Orange ("City") authorized application through the Florida Division of Emergency Management ("FDEM") to the Federal Emergency Management Agency ("FEMA") for grant funding from the Flood Mitigation Assistance Grant Program for acquisition of **one** home; and

WHEREAS, the City desires to make application through the Florida Division of Emergency Management ("FDEM") to the Federal Emergency Management Agency

("FEMA") for grant funding from the Flood Mitigation Assistance Grant Program for additional homes and desires to submit one application for **all** acquisitions; and

WHEREAS, by and through this Resolution 23-64, the City desires to amend and restate the authorization for application through the Florida Division of Emergency Management ("FDEM") to the Federal Emergency Management Agency ("FEMA") for grant funding from the Flood Mitigation Assistance Grant Program for acquisition of homes; and

WHEREAS, seven homes are insured under the National Flood Insurance Program (NFIP) and have been identified by the City as Substantially Damaged due to Hurricane Ian or on FEMA's Repetitive Loss list due to repetitive flooding events over the course of years with repetitive flood loss claims; and

WHEREAS, the City desires to make application through the Florida Division of Emergency Management ("FDEM") to the Federal Emergency Management Agency ("FEMA") for grant funding from the Flood Mitigation Assistance Grant Program for the reimbursable portion of the $2,000,000 estimated total project costs; and

WHEREAS, the City recognizes this grant from FMA is a cost reimbursement grant with varying cost share percentages based on the number of times a structure has flooded; and

WHEREAS, the City recognizes the project will require a cost contribution from the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The recitals above are true and correct and form a part of this Resolution.

Section 2. The City Council of the City of Port Orange, Florida, hereby approves and authorizes the submission of the Flood Mitigation Assistance Grant Program Application for the acquisition and demolition project for the structures included and identified in **Exhibit "A"**, attached hereto and made a part hereof by reference.

Section 3. The City Manager is hereby authorized to execute all necessary documents for the completion and forwarding of the project application to FDEM.

Section 4. This resolution shall become effective immediately upon adoption.

_____
MAYOR DONALD O. BURNETTE

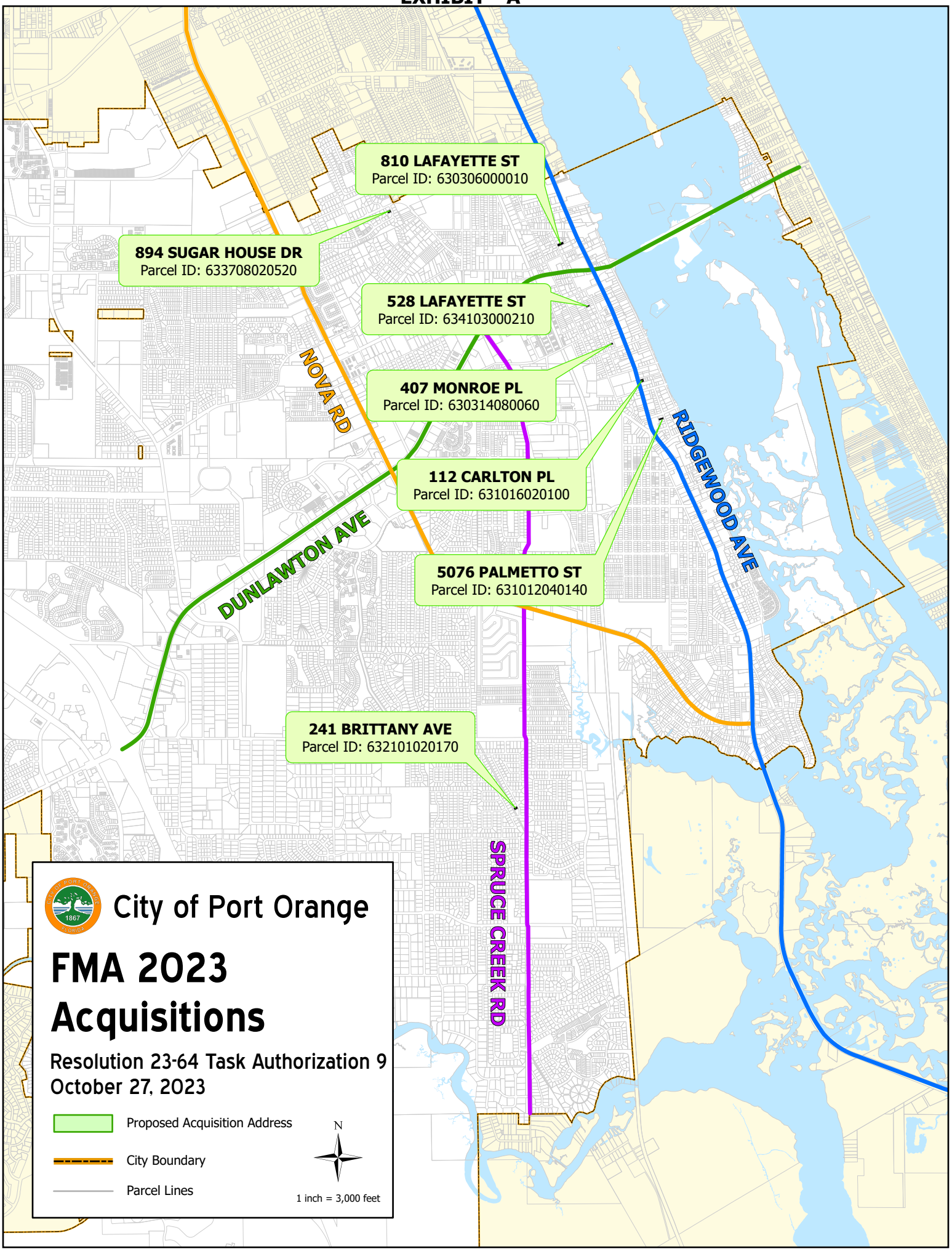
ATTEST:

_____
Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney

EXHIBIT "A"


810 LAFAYETTE ST
Parcel ID: 630306000010
894 SUGAR HOUSE DR
Parcel ID: 633708020520
528 LAFAYETTE ST
Parcel ID: 634103000210
407 MONROE PL
Parcel ID: 630314080060
112 CARLTON PL
Parcel ID: 631016020100
5076 PALMETTO ST
Parcel ID: 631012040140
241 BRITTANY AVE
Parcel ID: 632101020170
NOVA RD
DUNLAWTON AVE
RIDGEWOOD AVE
SPRUCE CREEK RD
City of Port Orange
FMA 2023 Acquisitions
Resolution 23-64 Task Authorization 9
October 27, 2023
Proposed Acquisition Address
City Boundary
Parcel Lines
N
1 inch = 3,000 feet

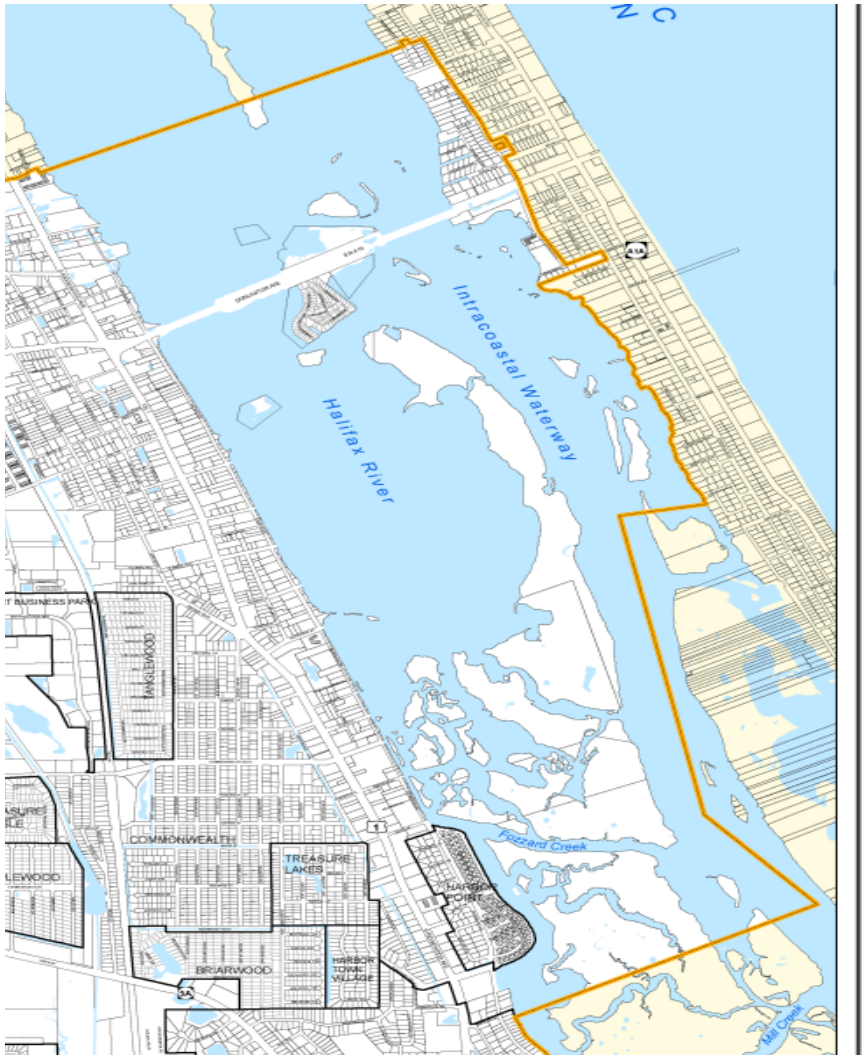
Derelict Vessel Update

City of Port Orange Police Department

Manuel J. Marino

Chief of Police

Port Orange City Limits - Halifax



- City Boundaries on the Halifax
  - City limit north of Riverwalk Park
  - Seminole Avenue to the South
  - Halifax River with the exception of Wilbur Bay on the beachside

Derelict Vessel

- Derelict Vessel
- Wrecked, junked, or in substantially dismantled condition upon any waters of this state.
  - A “wrecked” vessel is one that is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire.
  - A “junked” vessel is one that has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator.
  - A vessel is “substantially dismantled” if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken:
    - The steering system;
    - The propulsion system; or
    - The exterior hull integrity

At-Risk Vessel

- FWC officers or officers from a law enforcement agency specified in 327.70, F.S. may determine a vessel is at risk of becoming derelict if any of the following conditions exist:
  - The vessel is taking on or has taken on water without an effective means to dewater.
  - Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time.
  - The vessel has broken loose or is in danger of breaking loose from its anchor.
  - The vessel is listing due to water intrusion.
  - The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice, which may be provided by facsimile, electronic mail, or other electronic means, stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.
  - The vessel is tied to an unlawful or unpermitted structure or mooring.
  - Periodic vessel inspections by law enforcement coupled with at-risk vessel citations and warnings work to encourage at-risk vessel owners to bring their vessel into compliance before it becomes derelict.
  - In October 2023, FWC conducted an At-Risk Vessel operation targeting the entire Volusia coastal area.

Public Nuisance Vessel

- A vessel is declared a public nuisance and may be removed as if it were derelict when the owner has been cited three times within an 18-month period for the same at-risk conditions, without acquittal or dismissal.
  - This provides a way to remove vessels from the water BEFORE they become derelict. Because at-risk vessels are still afloat, they are less expensive to remove than derelict vessels.

Vessel Turn-In Program

- Florida's Vessel Turn-In Program or VTIP is designed to prevent at-risk vessels from becoming derelict. Derelict vessels pose hazards to public safety and the environment, are more costly to remove, and can incur criminal liability for the owner. VTIP removes and destroys unwanted, at-risk vessels at no cost to the vessel owner.
  - The costs of removing, destroying and disposing eligible VTIP vessels are 100% funded by this program. Opportunities to remove unwanted, at-risk vessels through VTIP are awarded on a first come, first served basis. FWC accepts applications until available funding has been exhausted or the program ends, whichever occurs first.

Required Removal Project Permitting

- **Derelict Vessel Removal Permitting**
  - Most derelict vessel removal projects in Florida require environmental permitting. Failure to apply and be granted required permitting before a project begins could result in state and/or federal fines and penalties being assessed.
- **Exemption**
- State rule provides an exemption to derelict vessel removal permitting whereby obtaining a Florida Department of Environmental Protection permit to remove a derelict vessel from state waters is not required as long as:
  - Best management practices are followed.
  - No harm to the environment is done. If damage may occur, the project should be reviewed and permitted.
    - Failure to comply with the no harm clause could result in fines and/or prosecution.
  - The derelict vessel case has been entered into the Statewide Derelict Vessel Database maintained by the FWC.
  - For more information, see Administrative Rule 62-330.051(5)(g).

Best Management Practices

- To Qualify for the Permitting Exemption
  - Contractors must follow 19 Best Management Practice (BMP) requirements when removing various derelict vessels.
  - Most of the BMP requirements involve avoiding or minimizing impacts to the marine environment such as:
    - Live Bottom
    - Seagrass Beds
    - Oyster Beds
    - Mangroves
  - All work performed must also avoid impacts to sea life such as manatees, sea turtles and other protected species.
  - The dragging of vessels is to be avoided both on and off-shore.

Best Management Practices

- To Qualify for the Permitting Exemption
  - Contractors must also have the required equipment dependent upon the type of derelict situation such as:
    - Floating or Lightly Aground
    - Hard Aground
    - Sunken in Shallow Water
  - Types of required equipment for these types of removals may include:

Shallow Draft Deck Barge	Contaminant Containers
Barge Mounted Crane	Floatation Devices
Turbidity Barriers	Pumps and other Equipment

Derelict Vessel Removal Cost

- A recent derelict vessel removal project near the Dunlawton Bridge required a barge with a 300-ton crane, and a pair of 30-ton concrete ballast blocks.
- The project was funded by the Florida Wildlife Commission Derelict Vessel Direct Removal program and cost approximately $93,000 to remove five vessels.
- In 2022, the City of Daytona Beach approved over $100,000.00 to remove 12 vessels identified as derelict.
- Municipalities that pay to have a derelict vessel removed may apply for reimbursement through a grant. However, FWC must have conducted the investigation.

Derelict Vessel Removal Cost

- REMOVAL OF SUNKEN VESSEL

Fiberglass Hulls	Cost Per Foot
• Vessels less than 25’	$160
• Vessels 26’- 31’	$175
• Vessels 32' - 40’	$190
• Vessels 41’- 55’	$200
• Vessels 56 – 79”	$275
• Vessels 80’	$325

- VESSEL DEMOLITION & DISPOSAL

(Includes containers, landfill fees crushing/ destruction)

Fiberglass Hulls	Cost Per Foot
• Vessels less than 25’	$180
• Vessels 26’- 31’	$190
• Vessels 32' - 40’	$200
• Vessels 41’- 55’	$225
• Vessels 56' - 79’	$275
• Vessels 80’+	$325

Derelict Vessel Removal Cost

- FLDV-0002244
  - Case # FWC22ON0074278
  - Pending Removal
  - 1977 32’ Pacemaker Yacht
  - Fiberglass Hull
  - Vessel Removal (32’@$200) $6,400.00
  - Vessel Destruction (32’@$225) $7,200.00

Total $13,600.00

Derelict Vessel 2023 Update

- Volusia County has had a total of 59 Derelict Vessels identified.
  - All but 9 vessels have been removed, but are set for removal
  - There are currently 13 ongoing derelict vessel investigations in Volusia County
- Port Orange has five derelict vessels in the DV database
  - Two derelict vessels have already been removed
  - One derelict vessel is pending removal
  - Two vessels are currently under investigation

Derelict Vessel Comparison

City	Removed	Pending Removal	Under Investigation
New Smyrna Beach	6	3	2
Edgewater	3	3	3
Daytona Beach	7	1	1
Port Orange	2	1	2

* As of October 27, 2023

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (H16) First Reading - Ordinance No. 2023-11 - Amending Chapter 2 Administration - Finance - Payments for Utilities

DEPARTMENT: Finance

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Motion to approve first reading of Ordinance No. 2023-11.

SUMMARY: In 2022, Raftelis Financial Consultants, Inc. was contracted to provide utility rates and other municipal fee reviews to include the water, sewer, and sewage disposal systems to determine the rates necessary to effectively update and maintain City utilities. Raftelis presented its analysis and fee recommendations to the Council throughout the fall of 2022 and spring of 2023 at numerous workshops. They also reviewed the ordinances for the payment of the water, wastewater, and reclaimed utility systems. The proposed amendments to the Code of Ordinances Chapter 2 relate to late payment fees, delinquent account fees, increase of the city manager's authority to credit a customer's account and authorizing the ability to waive a late fee, and establishing the framework for payment plans.

These changes to the water, sewer, and reclaimed utility fees adhere to all other applicable state statutes and best practices of water, sewer and reclaimed utilities among municipal governments.

Summary of Proposed Amendments:

Section 2-240. Utility Billing, delinquent accounts, liens, and adjustments.

a. Late fees are currently set at $10.00, no matter the outstanding bill. The recommendation is to update the late fee from the $10.00 flat fee to a fee of $10.00 or 3%, whichever is greater. This will encourage utility customers with larger outstanding bills to pay their utility bills on time. This should reduce the amount of time that staff spends calling customers after the due date to encourage them to pay prior to disconnection from service.

b. Change the disconnect fee to a delinquent fee. Staff is forced to go out to customer meters on multiple occasions to perform disconnections and by changing the term, whether staff does or does not disconnect the water meter, the fee is still applicable. This may occur when the meter cannot be disconnected due to an

obstruction preventing staff from disconnecting the meter.

c. Clarification that tenants are responsible for their utility accounts/bills, and the landowner is not responsible for the obligations of the tenant. However, if there is a transfer of ownership of the property, the new landowner is responsible for any outstanding utility bills and liens.

d. Increase the city manager's authority to credit a customer's utility account from $50.00 to $100.00. This provides more flexibility to make necessary adjustments to the current three circumstances listed below for which the city manager may credit accounts.

1. Billing error
2. Transposing numbers when a customer makes a payment.
3. The customer pays the prior month's utility bill, resulting in a late fee.

e. Authorization for the city manager to credit a customer's penalty and/or delinquent fee, provided the customer has a record of no late payments in a twelve-month period. This gives the city manager the ability to waive the penalty and/or delinquent fee for certain situations that the customer might not have been able to avoid and provides the customer service staff with more flexibility to assist a customer who might have a hardship or unavoidable situation, who is unable to pay their bill in a timely manner.

f. Payment plans. Clarifies and memorializes how staff currently handle payment arrangements. It creates the eligibility by which a customer may request payment arrangements and the administrative fees involved. The change will also increase the payment plan limit from twelve months to no more than thirty-six months in length.

PRESENTER: John McKinney

ATTACHMENTS:

1.	Ord. No. 2023-11- Ch. 2 Amendment re Utility Billing and Payment Plans MJrev11.7.23	Ord. No. 2023-11- Ch. 2 Amendment re Utility Billing and Payment Plans MJrev11.7.23.pdf
2.	BIE - Ord. No. 2023-11	BIE - Ord. No. 2023-11.pdf

John McKinney	Created/Initiated - 8/15/2023
John McKinney	Approved - 11/7/2023
Matthew Jones	Approved - 11/8/2023
Wayne Clark	Approved - 11/9/2023
Tracee Cody	Final Approval - 11/9/2023

ORDINANCE NO. 2023-11

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, SECTION 2-240 RELATED TO PAYMENTS FOR UTILITIES TO REVISE THE LATE PAYMENT PENALTY, ESTABLISH A DELINQUENT FEE, AND EXPAND THE AUTHORITY OF THE CITY MANAGER TO MAKE UTILITY BILLING ADJUSTMENTS; ESTABLISHING A NEW SECTION 2-242 AUTHORIZING DELINQUENT ACCOUNT PAYMENT PLANS; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SCRIVENERS ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council recognizes the need for an efficient and uniform operation regarding billing for utilities and other miscellaneous services provided by the City of Port Orange; and

WHEREAS, for purposes of this Ordinance text with underlined (underlined) type shall constitute additions to the original text and text with strike-through (~~strike-through~~) type shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AS FOLLOWS:

SECTION 1: The City Council of the City of Port Orange, Florida hereby amends Chapter 2, Article VI, Section 2-240 to read as follows:

Sec. 2-240. Utility billing, delinquent accounts, liens and adjustments.

(a) Except as otherwise provided in this Code, bills for city services shall be rendered monthly and shall be due within 20 days of the bill date. A $10.00 or 3%, whichever is greater, penalty shall be assessed on all bills paid later than 10 days after the due date. A delinquent fee, as established by resolution, shall be assessed on all bills paid later than 20 days after the due date.

(b) If the fees, rates or charges for city services billed to the owner of property served by such city services are not paid as and when due and remain unpaid for 20 days or more after the due date, any unpaid balance thereof, together with interest at the rate of one percent per month on the entire past due balance, from the due date, shall be a lien on any lands or premises affected or served thereby. Such liens shall be superior and paramount to the interest in such lands or premises of any owner, lessee, tenant, mortgagee or other person, except the lien of state, county and municipal taxes, and shall be on a parity with the lien of such state, county and municipal taxes. If the city files a lien or files a satisfaction of lien the owner shall pay the costs of lien processing established by Volusia County and an administrative fee, as established by resolution. If any such fee, rate or charge is not paid as and when due and is in default for 25 days or more, the unpaid balance thereof and all interest accrued thereon, together with a collection fee, as established by resolution, may be referred to a collection agency. If any such fee, rate or charge is not paid as and when due and is in default for 20 days or more, the unpaid balance thereof and all interest accrued thereon, together with attorneys' fees and costs, may be recovered and such liens may be foreclosed by the city in the manner provided by the laws of the state for foreclosure of mortgages on real property.

(c) The lien against property owners billed annually on the non-ad valorem assessment bill shall be enforced for failure to pay, through the same manner as a levy and ad valorem tax sale. In the event of such action, the city or its agents shall be entitled to recover all court costs and reasonable attorney fees for such collection.

(d) In the case that a tenant in possession of any premises or buildings shall pay such charges, it shall relieve the land owner from such obligation and lien; but the city shall not be required to ~~look to~~ enforce payment from any person whatsoever other than the owner of the affected property ~~for the payment of such charges~~. No changes of ownership or occupation shall affect the application of this article, and the failure of any owner to learn that he or she acquired property against which a lien for utility fees exists shall in no way affect his or her responsibility for such payment.

(e) In addition to any other remedies or penalties provided by this or any other ordinance of the city, failure of any user of city utilities within the city to pay such charges promptly when due shall subject such user to

discontinuance of utility services where the charges have accrued, without notice to the occupants of such premises, and the service shall not be reconnected until the amount owed is paid in full to the city by cash, money order, cashier's check or credit card.

(f) *Utility billing adjustment credits*. Adjustment credits may be issued by the city pursuant to this subsection. Such credits shall be reviewed and approved by the finance director or his or her designee.

(1) Swimming pool fill. A reduction to a customer's sewer charges shall be authorized up to twice in any twelve-month period for swimming pool fills under the following circumstances:

a. The actual consumption for the fill is documented by meter readings conducted by city staff before and after the fill takes place~~. The city shall assess a service charge established by the rate resolution if field work is required to conduct the pre- and post-meter readings~~; or

b. The swimming pool fill is documented with the presentation of a certification from a pool installer or repairman on the company's letterhead detailing the date of installation or repair and an estimate of the amount of water added to the pool. The certification shall be reviewed against the actual metered consumption so that the customer's adjusted sewer billing is not less than the average monthly billing over the previous 12 months.

(2) Leaks. A customer shall be eligible for a credit as the result of a leak up to twice in any 12 month period under the following circumstances:

a. If the leak occurs either between the meter or the backflow device and the customer's house or inside the house, the customer shall be eligible for a credit against the sewer charges upon presentation of sufficient verification of the leak. Water leakage must not have entered the sewer system in order to be eligible for the credit. Credit cannot reduce sewer charges lower than the average monthly billing for sewer usage during the previous 12 months, and said credit shall apply to up to two billing cycles within any twelve-month period. Acceptable verification shall consist of a bill or letter from a plumber on the company's

letterhead describing the type and location of the leak, receipts for repair materials or photos. If the leak is originally identified by a city employee, the employee's statement may be substituted for the plumber's verification. If the leak is discovered and repaired by the property owner, then the owner shall submit documentation evidencing the leak detection and repair in a format acceptable to the city in order to be eligible for an adjustment.

b. If the leak occurs at the meter or between the meter and a backflow device, the customer will be eligible for a credit against both the water and sewer charges upon presentation of sufficient verification as described above.

(3) Extraordinary consumption. If a customer's monthly consumption exceeds the average reading from the previous 12 months by 300 percent or more and the following month returns to the average consumption of the previous 12 months, the customer shall be eligible for a credit against the sewer charges as provided for leaks in subsection (f) above. Such credit shall be granted following a second month's billing after the extraordinary consumption to verify that the reading is a one-time event. If the one-time extraordinary consumption event spans two billing cycles, the adjustment shall be applied proportionally to each of the two billing cycles.

(4) Administrative adjustment. The city manager or his or her designee is authorized to credit a customer's monthly utility account up to $100.00 ~~$50.00~~ in any twelve-month period under the following circumstances:

a. The adjustment is warranted due to a billing error made by the city.

b. The customer inadvertently transposes one or more numbers while making a payment.

c. The customer inadvertently pays the previous month's statement balance resulting in a late payment penalty.

d. To offset a penalty and/or delinquent fee, upon request, provided the customer has a record of no late payments in the twelve-month period immediately preceding the request.

SECTION 2: The City Council of the City of Port Orange, Florida hereby establishes Chapter 2, Article VI, Section 2-242 which shall read as follows:

Section 2-242. – Payment plans.

Payment Arrangements and Responsibility. The city shall offer payment arrangements, over a period not to exceed thirty-six (36) months, for eligible owners of real property of a single-family residence served by city utilities having a delinquent utility account, for the purpose of acquiring or reacquiring water service to an encumbered property. The eligibility requirements, criteria, contents of the form agreement, and administrative fees shall be established by resolution of the city council and subject to the following:

(a) Applicants shall be the owner of record of the encumbered real property.

(b) The city manager or their designee shall have the authority to review applications for payment arrangements for delinquent accounts and enter into said payment arrangements.

(c) If the application is denied, the applicant may appeal to the city council for review of the city manager's or their designee's determination. Any appeal shall be filed in writing with the city clerk's office within 30 days after the date of the city manager's or their designee's decision.

(d) Applications for payment arrangements will not be considered if received within twelve (12) months of a previously completed payment arrangement. Furthermore, if a payment arrangement is not successfully completed, an applicant may not apply for another payment arrangement for at least twelve (12) months from the date of default of the initial payment arrangement.

SECTION 3. Specific authority is hereby granted to codify and incorporate this ordinance in the existing Code of Ordinances of the City of Port Orange.

SECTION 4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 5. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provision or applications of this ordinance which can be given effect without the invalid provision or application, and to this and the provisions of this ordinance are declared severable.

SECTION 6. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 7. This ordinance amendment shall take effect upon adoption.

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Robin L. Fenwick, MMC, City Clerk

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

Passed and adopted on second and final reading on the _____ day of _____, 2023.

Reviewed and Approved: _____
Matthew J. Jones, City Attorney

Print Form

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:
Ord. No. 2023-11 - Amending Ch. 74, Sec. 2-240 Related to Utility Billing and Establishing Sec. 2-241 Creating a Delinquent Payment Plan Framework.

This Business Impact Estimate is provided in accordance with Section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is **not** required by state law[1] for the proposed ordinance, but the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☑ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The proposed ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
  c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
  d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

[1] See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

Utility Payment Process and Delinquent Payment Plan (see Agenda Summary for more detail).

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

(a) An estimate of direct compliance costs that businesses may reasonably incur:

None.

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible:

The late fee for utility billing is changing from $10 to $10 or 3% whichever is greater.

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

Fees expected to cover costs of processing shut-offs, liens and other administrative costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

Only those businesses that do not pay utility bill on time will be impacted.

4. Additional information the governing body deems useful[2] (if any):

These changes are generally applicable to all customers (individuals and businesses alike). The ordinance also sets forth a payment plan for those property owners that get behind on utilities payments, and gives the City Manager greater authority to waive late fees for those who have a good payment history.

[2] *You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: City staff solicited comments from businesses in the City as to the potential impact of the proposed ordinance by contacting the local Chamber of Commerce, social media posting, direct mail or direct email, posting on City website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses.*

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (H17) First Reading - Ordinance No. 2023-16 - Land Development Code Amendment/Chapter 21 - Update to City Impact Fees (Case No. DCAM-23-0001)

DEPARTMENT: Community Development

GOAL: 2 - Infrastructure, 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve Ordinance No. 2023-16.

SUMMARY: PLANNING COMMISSION ACTION (4/27/23): Recommended Approval (6 - 0)

At its February 28, 2023, workshop, the City Council directed staff to proceed with the steps necessary to adjust the City Impact Fees based on the rates proposed in the Municipal Impact Fee Studies prepared by Raftelis Financial Consultants, Inc. (Raftelis). The Raftelis studies serve as the data and analysis for the LDC Code Amendment to implement the changes to the current Fire, Transportation, and Parks and Recreation Impact Fees and to create a Police Impact Fee. Impact fees are charges assessed on new development to help pay for public infrastructure required to accommodate the new development. Impact fees are either charged at the issuance of a building permit or before the issuance of the Certificate of Occupancy for a building. The Fire, Transportation, and Parks and Recreation Impact Fees were last updated in 2005/2006.

City staff have met with and discussed the proposed changes to the Fire, Transportation, and Parks and Recreation Impact Fees and the new Police Impact Fee with the Volusia Building Industry Association (VBIA), Volusia Country Association of Responsible Development (VCARD), and the Port Orange/South Daytona Chamber of Commerce.

Impact fees are generally calculated by taking a Land Use Category (Single-Family, Multi-Family, Commercial, Office, Assisted Living Facility, etc.) and establishing a cost that a factor/multiplier (square footage, rooms, beds, dwellings, etc.) for a Land Use category will have on city services. For example, impact fees for commercial uses are calculated based on the square footage of the building, an assisted living facility is calculated based on the number of beds, and a single-family home is calculated based on a dwelling unit.

The following is a summary of the revisions or updates to Chapter 21 of the Land Development Code based on the studies prepared by Raftelis.

- The recommended increases to the Fire, Transportation, and Parks and Recreation Impact Fees will be phased in over four years to comply with current impact fee legislation. According to the Florida Statute, an increase to the current impact fee rate that exceeds 25 percent but is not more than 50 percent of the current rate must be implemented in four equal installments beginning with the date the increased fee is adopted. The proposed increases to the impact fee rates are not more than 50 percent of the current impact fee rates.
- Establish the recommended Impact Fee schedule for all impact fee categories (Fire/Rescue, Transportation, Recreation, and Police) over the next four (4) years.
- Fire/Rescue Impact Fee: Implementation of recommended Land Use categories and factors/multipliers (rooms, dwellings, beds, or 1,000 Sq. Ft.) to calculate the impact fee. The code currently includes just two Land Use Categories (Residential and Non-Residential), and they do not account for the diverse range of impacts on city fire and rescue services needed for the variety of modern uses being developed. The categories have been updated to reflect a full range of Land Uses, such as Single-Family, Multi-Family, Industrial/Manufacturing, Hotel, Recreational, Institutional, Office Building, Retail, and Assisted Living Facility. The proposed changes better account for the impact various types of new commercial or residential uses have on City fire services and meet the City's needs in providing the necessary capital improvements for new growth.
- Parks and Recreation Impact Fee: Implement the recommended increase to the Parks and Recreation Impact Fee to fund capital improvements, including purchasing additional land for parks, new facilities, and expansion of parks and recreation services as required for new growth. The Parks and Recreation Impact Fee only applies to Residential Uses (Single-Family/Mobile Home, Multi-family, Duplex/Townhomes).
- Transportation Impact Fee: Implement recommended Land Use categories and factors/multipliers (rooms, dwellings, beds, or 1,000 Sq. Ft.) to calculate the impact fee. The proposed Land Use categories and factors/multipliers have been updated to reflect more diverse current Land Uses, so the impact fee collected captures the impact a new development has on the City's transportation infrastructure and meets the City's needs in providing the necessary capital improvements to the City's roadway network for new growth.
- Police Impact Fee: Establish the new recommended Police Impact Fee that will apply to both new residential and commercial uses and fund capital improvements (facilities and additional vehicles) to expand the police force to serve new development. The City does not currently charge a Police Impact Fee. Land Use Categories proposed are based on the categories used for the Fire Impact Fee. The proposed Land Use Categories and factors/multipliers account for the impact various types of new commercial or residential uses have on the city police service and meet the City's needs in providing the necessary capital improvements for new growth.

The attached ordinance incorporates the updated fees and recommended changes to Land Use categories, removes redundant, out-of-date, and inconsistent provisions in Chapter 21, and ensures compliance with state law. The Florida Impact Fee Act requires that the new schedule that includes an increase is not in effect until 90 days

after adoption by the local government. The date the updated Impact Fee schedule will be effective is March 11, 2024.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	Ord. No. 2023-16 - Impact Fee Ord	Ord. No. 2023-16 - Impact Fee Ord.pdf
2.	2023 Port Orange Parks, Police and Fire Impact Fees Report - Final	2023 Port Orange Parks, Police and Fire Impact Fees Report - Final.pdf
3.	2023 Port Orange Transportation Impact Fee Report Revised - Final	2023 Port Orange Transportation Impact Fee Report Revised - Final.pdf
4.	Business Impact Estimate Form - Ord. 2023-16	Business Impact Estimate Form - Ord. 2023-16.pdf

Penelope Cruz	Created/Initiated - 10/27/2023
Tim Burman	Approved - 10/27/2023
Shannon Balmer	Approved - 11/1/2023
Matthew Jones	Approved - 11/9/2023
John McKinney	Approved - 11/9/2023
Wayne Clark	Approved - 11/9/2023
Tracee Cody	Final Approval - 11/9/2023

ORDINANCE NO. 2023-16

AN ORDINANCE OF CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING AND CONSOLIDATING CERTAIN PROVISIONS OF CHAPTER 21 OF THE CITY'S LAND DEVELOPMENT CODE RELATED TO IMPACT FEES IMPOSED BY THE CITY OTHER THAN WATER AND SEWER DEVELOPMENT FEES; PROVIDING FOR UNIFORMITY AND CONSISTENCY OF IMPACT FEE ADMINISTRATION AND PROCEDURES; PROVIDING FOR REORGANIZATION, REVISIONS, ADDITIONS AND DELETIONS TO EFFECTUATE CONSOLIDATION OF THE IMPACT FEE CODE PROVISIONS; ADOPTING UPDATED SCHEDULES OF FIRE/RESCUE IMPACT FEES, TRANSPORTATION IMPACT FEES, AND PARKS AND RECREATION IMPACT FEES; PROVIDING FOR THE IMPOSITION OF POLICE IMPACT FEES; ADOPTING A SCHEDULE OF POLICE IMPACT FEES AND CLASSIFYING USES OF PROPERTY SUBJECT TO SUCH IMPACT FEES; PROVIDING DEFINITIONS, RULES OF CONSTRUCTION AND FINDINGS; PROVIDING FOR THE USE OF IMPACT FEE MONIES COLLECTED; PROVIDING FOR EXEMPTIONS IN CONNECTION WITH IMPACT FEES; PROVIDING FOR THE CALCULATION OF ALTERNATIVE IMPACT FEES; PROVIDING FOR CHANGES OF SIZE AND USE; PROVIDING FOR PAYMENT AND COLLECTION OF IMPACT FEES; PROVIDING FOR IMPACT FEE CREDITS; REQUIRING PERIODIC REVIEW OF IMPACT FEE STUDIES AND THIS ORDINANCE; DECLARATION OF EXCLUSION FROM THE ADMINISTRATIVE PROCEDURE ACT; PROVIDING FOR NOTICE OF THE UPDATED SCHEDULES OF FIRE/RESCUE IMPACT FEES, TRANSPORTATION IMPACT FEES, AND PARKS AND RECREATION IMPACT FEES AND FOR THE IMPOSITION OF POLICE IMPACT FEES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 21 of the Land Development Code (the "Impact Fee Ordinance") of the City of Port Orange, Florida (the "City") provides for the imposition of various impact fees to fund the acquisition of public facilities necessitated by new growth and development; and

WHEREAS, the City Council has considered the studies recently prepared by Raftelis Financial Consultants, Inc. related to updating the City's existing fire/rescue, transportation and recreation impact fees, and implementing a new police impact fee; and

WHEREAS, this Ordinance is adopted for purposes of (i) updating the City's fire/rescue, transportation and recreation impact fees, (ii) establishing new police impact fees, and (iii) consolidating the administrative and procedural provisions of Chapter 21 into a single comprehensive ordinance providing for uniform and consistent administration procedures for all impact fees imposed thereunder; and

WHEREAS, the provisions of this Ordinance shall not apply to water and sewer development fees, the governing provisions for which are currently codified in Article IV, Chapter 21 of the City's Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PORT ORANGE, FLORIDA, THAT:

Section 1: Effective as of April 1, 2024, Articles I, II and III of Chapter 21 of the Land Development Code are hereby amended and restated in their entirety as follows:

CHAPTER 21
IMPACT FEES AND PROPORTIONATE FAIR SHARE

ARTICLE I: GENERAL PROVISIONS

Section 1: Short title; applicability; purpose.

(a) This Chapter shall be known and may be cited as the "City of Port Orange, Florida Consolidated Impact Fee Ordinance."

(b) This Chapter shall apply to the development of property within the boundaries of the City. This Article shall apply to the payment of Impact Fees imposed upon Impact Construction under Article II of this Chapter.

(c) The purpose of this Chapter is to provide for the imposition and collection of impact fees to fund the public facilities necessary to serve the demands of new development and to require that future growth contributes its fair share to the cost of additions and improvements to city facilities in amounts reasonably anticipated to offset the impacts and demands generated by such growth. This cost does not include costs associated with operation, maintenance or repair of City facilities, or increases to standards or levels of service unrelated to meeting the impacts and demands of new growth and development.

Section 2: Definitions.

When used in Articles I and II of this Chapter, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"Accessory Use or Structure" means any use or structure, clearly incidental, subordinate and related to the principal use or structure and located on the same lot with such principal use or structure. The term shall include but not be limited to satellite dish antennas, windmills, solar energy equipment, detached garages and carports, above-grade swimming pools and utility sheds.

"Apartment" shall mean a rental Dwelling Unit located within the same Building as other Dwelling Units.

"Applicant" shall mean the Owner, or duly designated agent of the Owner, who applies for a Building Permit.

"Building" shall mean any relatively permanent, immobile structure with an impervious roof built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" shall be construed as if followed by the words "or part thereof." This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of construction.

"Building Permit" shall mean an official document or certificate issued by the City, under the authority of ordinance or law, authorizing the construction or siting of any Building. "Building Permit" shall also include site plan approvals, or other development orders for those activities, structures, or Buildings that do not require a Building Permit in order to be undertaken.

"Capital Facilities" shall mean City facilities, improvements, infrastructure and equipment for which Impact Fees are imposed hereunder.

"Certificate of Occupancy" shall mean a document or action certifying compliance with applicable building, land development, or zoning laws and regulations, and authorizing the occupancy of any Building, or parts thereof. The term "Certificate of Occupancy" shall include, but not be limited to, Certificates of Completion or other final inspection sign-off for those structures or Buildings that may not require a Certificate of Occupancy and/or any functional equivalent of a Certificate of Occupancy.

"City" shall mean the City of Port Orange, Florida.

"City Clerk" shall mean the City Clerk of the City of Port Orange, Florida.

"City Manager" shall mean the City Manager of the City of Port orange, Florida.

"Comprehensive Plan" shall mean the City's long-range planning guide prepared and adopted by the City in accordance with Part II, Chapter 163, Florida Statutes.

"Condominium" shall mean a single-family or time-sharing ownership unit that has at least one other similar unit within the same building structure. The term Condominium includes all fee simple or titled multi-unit structures, excluding Townhomes and Duplexes.

"Council" shall mean the City Council of the City of Port Orange, Florida.

"Dwelling Unit" shall mean a single housing unit providing complete, independent living facilities for one housekeeping unit, including permanent provisions for living, sleeping, eating, cooking and sanitation. The term "dwelling" is synonymous.

"Educational Board" shall mean a district school board, a Florida College System institution board of trustees, and/or a university board of trustees. The term "Educational Board" does not include the State Board of Education or the Board of Governors.

"Encumbered" shall mean a commitment by contract, appropriation or purchase order in a manner that obligates the City to expend the Encumbered amount upon delivery of goods, the rendering of services or the conveyance of real property by a vendor, supplier, contractor or Owner or approval of the expenditure of funds in an approved budget, including expenditures for payment of debt service on municipal bonds or other debt obligations of the City secured in whole or in part by the Impact Fees contemplated hereunder.

"Finance Director" shall mean the Finance Director of the City of Port Orange, Florida.

"Governmental Use" shall mean and refer to the use of property exclusively for public purposes by, and which property is owned or leased by, the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district, a school district, or a municipal corporation, or any department or branch thereof.

"Impact Construction" shall mean land construction or improvement designed or intended to permit a use of the land which will contain more Dwelling Units, Buildings or Square Footage than the existing use of land, or to otherwise change the use of the land in a manner that increases the impact upon Capital Facilities.

"Impact Fee Coordinator" shall mean the City Manager.

"Impact Fee Land Use Category" shall mean those categories of land use incorporated in the Impact Fee Rate Schedules hereunder and further described in the Impact Fee Studies.

"Impact Fees" shall mean collectively the impact fees imposed by the City pursuant to this Article and Sections 163.31801 and 166.021, Florida Statutes.

"Impact Fee Studies" shall mean, collectively, the "2023 Municipal Impact Fee Study" dated June 19, 2023 and the "Transportation Impact Fee Study Update" dated June 2023, each prepared by Raftelis Financial Consultants, Inc., as such studies may amended and supplemented from time to time.

"Industrial" shall mean an establishment primarily engaged in the fabrication, assembly or processing of goods. Typical uses include manufacturing plants, welding shops, wholesale bakeries, dry cleaning plants, bottling works and research and development centers.

"Institutional" shall mean an establishment or use which is assigned a Florida Department of Revenue property use code of "70" through "79," indicative of

institutional use. Typical uses include private schools, private hospitals, orphanages, cemeteries, sanitoriums and nursing homes.

"Manufactured Dwelling" means a dwelling fabricated in a manufacturing facility and bearing a seal certifying it is constructed to standards as adopted under the authority of Chapter 553, pt. IV, Florida Statutes, and any administrative rules adopted thereunder.

"Mobile Home" shall mean a Dwelling Unit with all of the following characteristics: (1) designed for long term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; (2) designed for transportation after fabrication on streets or highways on its own wheels; and (3) arriving at the site where it is to be occupied as a dwelling complete, including major appliances, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities and the like. The term "Mobile Home" shall include Manufactured Dwellings. A travel trailer or recreational vehicle (RV) is not considered a Mobile Home.

"Multi-Family Residential" shall mean Dwelling Units located within the same Building as other Dwelling Units, including Apartments and Condominiums but excluding Townhomes and Duplexes.

"Office Building" shall mean a Building not located in a shopping center and exclusively containing establishments providing executive, management, administrative or professional services, and which may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, or childcare facilities. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, secretarial, data processing, telephone answering, telephone marketing, music, radio and television recording and broadcasting studios; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; interior decorating consulting services; medical and dental offices and clinics, including veterinarian clinics and kennels; and business offices of private companies, utility companies, trade associations, unions and nonprofit organizations.

"Ordinance" shall mean this Ordinance.

"Owner" shall mean any person, group of persons, firm, corporation or other legal entity having legal title to any specific lands in question.

"Person" shall mean any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, property owners' association, two (2) or more persons having a joint or common interest, governmental agency, or other legal entity.

"Single-Family Residential" means a Building containing only one Dwelling Unit, detached or attached.

"Square Footage" shall mean the gross area measured in feet from the exterior faces of exterior walls or other exterior boundaries of the Building, excluding areas within the interior of the Building which are used for parking.

"Townhomes and Duplexes" shall mean Dwelling Units located within the same Building as other Dwelling Units, provided that there are no more than three (3) Dwelling Units in the Building. Any development consisting of more than three (3) Dwelling Units shall constitute Multi-Family Residential land use for purposes of this Chapter.

"Warehouse" shall mean an establishment primarily engaged in the display, storage and sale of goods to other firms for resale, activities involving significant movement and storage of products or equipment, and self-storage facilities. Typical uses include wholesale distributors, storage warehouses, moving and storage firms, trucking and shipping operations, major mail processing centers and mini-warehouses.

Section 3: Findings.

It is hereby ascertained, determined and declared as follows:

(a) Pursuant to Article VIII, Section 2 of the Florida Constitution and Sections 166.021 and 166.041, Florida Statutes, the Council has all governmental, corporate and proprietary power to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law, and such power may be exercised by the enactment of legislation in the form of City ordinances.

(b) Development and redevelopment necessitated by the growth contemplated in the Comprehensive Plan and the Impact Fee Studies will require improvements and additions to the Capital Facilities to accommodate the new development generated by such growth and maintain the standards and levels of service provided by the City.

(c) Future growth, as represented by Impact Construction, should contribute its fair share to the cost of improvements and additions to the City facilities that are required to accommodate the impact generated by such growth.

(d) The Impact Fees are necessary to offset the costs to the City associated with meeting the necessary public service and facility demand created by projected new residential and non-residential development or redevelopment.

(e) The amount of the Impact Fees contemplated hereunder bears a reasonable relationship to the burden imposed upon the City to provide the new public facilities addressed in the Impact Fee Studies to new development.

(f) A reasonable connection, or rational nexus, exists between the projected new development and the need for additional public facilities to be funded by the Impact Fees.

(g) A reasonable connection, or rational nexus, exists between the expenditure of the funds collected pursuant to this Chapter and the benefits accruing to new development through the new capital facilities acquired by such expenditure.

(h) The Impact Fees adopted hereunder are proportional and reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or nonresidential construction.

(i) The Impact Fees adopted hereunder are proportional and reasonably connected to, or have a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.

(j) The required improvements and additions to City facilities needed to eliminate any deficiencies shall be financed by revenue sources of the City other than Impact Fees.

(k) Implementation of the Impact Fees to require Impact Construction within the City to contribute its fair share to the cost of required capital improvements is an integral and vital element of the regulatory plan of growth management of the City.

(l) The Council expressly finds that the improvements and additions to the City facilities to be funded by the respective Impact Fees imposed hereunder provide a benefit to all Impact Construction within the City that is in excess of the amount of the Impact Fees.

(m) The purpose of this Chapter is to regulate the development of land within the City by requiring payment of Impact Fees by Impact Construction and to provide for the cost of capital improvements to City facilities which are required to accommodate such growth. This Chapter shall not be construed to permit the collection of Impact Fees in excess of the amount reasonably anticipated to offset the demand on the Capital Facilities generated by such applicable Impact Construction.

(n) This Chapter includes procedures for accounting and reporting of impact fee collections and expenditures in order to assure compliance with applicable legal requirements.

(o) This Chapter establishes and requires separate accounting funds for the respective Impact Fees adopted hereunder.

(p) This Chapter requires audits of the City's financial statements to include an affidavit of the Finance Director stating that the requirements of Section 163.31801, Florida Statutes, have been complied with.

(q) The administrative fees set forth herein are equal to or lower than the City's actual costs for collection of the Impact Fee including the actual costs related to the administration and the collection process.

Section 4: Impact fee studies.

The Council hereby incorporates the Impact Fee Studies by reference, particularly the assumptions, conclusions and findings in such studies as to the allocation of anticipated costs of capital improvements and additions to the respective City facilities among the various property uses and those assumptions, conclusions and findings in such studies as to the determination of anticipated costs of additions required to accommodate growth. Copies of the Impact Fee Studies and this Ordinance shall be available to the public in the office of the City Clerk.

Section 5: Exemptions.

The following shall be exempted from payment of the Impact Fees adopted in this Chapter:

(a) Alterations, expansion or replacement of an existing Dwelling Unit (including a Mobile Home) where no additional Dwelling Units are created.

(b) The construction of Accessory Uses or Structures, which will not create an additional impact on the respective Capital Facilities.

(c) The replacement of a Building or Dwelling Unit where no additional Dwelling Units or Square Footage are created and where the existing and replacement Buildings or Dwelling Units are located on the same lot.

(d) Replacement of a Building or Dwelling Unit which does not increase the impact upon the City's Capital Facilities.

(e) All public educational and ancillary plants constructed by an Educational Board, to the extent such exemption is required by Section 1013.371(1)(a), Florida Statutes, or any successor statute or law.

(f) Charter school facilities, to the extent such exemption is required by Section 1002.33(18)(d), Florida Statutes, or any successor statute or law.

(g) Affordable housing properties developed and owned by any housing authority established by the City.

(h) Governmental Use. However, any Impact Fee exemption issued for a Governmental Use shall expire if an alteration causes the Building or development to no longer be for Governmental Use.

(i) Lots or parcels for which an Impact Fee has been paid or a developer contribution credit has been shall be exempt from the payment of such Impact Fees except in the event that a change in size or use justifies payment of an additional Impact Fee as provided in Section 6.

(j) The determination as to the applicability of exemptions hereunder shall be guided by any generally accepted standard source for planning and cost impact analysis.

Section 6: Changes of size and use.

An Impact Fee shall be imposed and calculated for the alteration, expansion or replacement of a Building or Dwelling Unit or the construction of an Accessory Use or Structure if the alteration, expansion or replacement of the Building or Dwelling Unit or the construction of an Accessory Use or Structure results in a land use determined to generate greater impact than the present use under the applicable Impact Fee rate schedules adopted in this Chapter. The Impact Fee imposed shall be calculated as follows:

(a) If the Impact Fee is calculated on a per Dwelling Unit basis and not on the basis of Square Footage, the Impact Fee imposed shall be the amount due under the applicable Impact Fee rate schedule for the Impact Fee Land Use Category resulting from the alteration, expansion or replacement, less the Impact Fee that would have been imposed under the applicable Impact Fee rate schedule for the Impact Fee Land Use Category prior to the alteration, expansion or replacement.

(b) If the Impact Fee is calculated on the basis of Square Footage, in the event the Square Footage of a Building is increased, the Impact Fee due for the increased Square Footage represented by the Impact Construction shall be calculated by determining the Impact Fee due according to the Square Footage resulting from the alteration, expansion or replacement, less the Impact Fee that would have been imposed for the original Square Footage prior to the alteration, expansion or replacement.

(c) If the use of a Building is changed after payment of the Impact Fee which results in a change in the applicable Impact Fee Land Use Category of the Building and such change is determined to generate a greater impact than the present use, the additional Impact Fee due for the change in use shall be calculated by determining the Impact Fee due according to the Square Footage of the Building under the new Impact Fee Land Use Category less the Impact Fee that was imposed for the Square Footage of the Building under the original Impact Fee Land Use Category.

(d) If an Impact Fee is imposed for an Accessory Use or Structure because such Accessory Use or Structure is determined to generate a greater impact than the present use, the fee shall be that applicable to the Impact Fee Land Use Category for the primary Building.

(e) The determination as to whether a change in size or use requires payment of an Impact Fee hereunder shall be guided by any generally accepted standard source for planning and cost impact analysis.

Section 7: Payment.

(a) An Applicant shall pay the applicable Impact Fee(s) adopted in this Ordinance directly to the City prior to the issuance of a Temporary Certificate of Occupancy, Certificate of Occupancy, or Letter of Completion, whichever is applicable. Payment of the Impact Fees shall be a condition precedent to issuance of a Temporary Certificate of Occupancy, Certificate of Occupancy, or Letter of Completion, except for Fire Impact Fee(s) which shall be paid by the Applicant prior to Building Permit Issuance.

(b) The payment of the Impact Fees shall be in addition to all other fees, charges or assessments due for the issuance of a Building Permit, Certificate of Occupancy, plat and/or any other applicable land development approvals.

(c) The obligation for payment of the Impact Fees shall run with the land.

(d) In the event an Impact Fee is paid by check, draft or other form of negotiable instrument, and such instrument does not clear, issuance of the Certificate of Occupancy associated with the payment of such Impact Fee shall be suspended and the City Manager shall send the appropriate suspension notice to the feepayer by certified mail. In the event such Impact Fee, together with any charges for funds not clearing, are not paid within ten business days following the mailing of such notice, the Certificate of Occupancy shall not be issued until such time as the Impact Fee is paid and the funds clear.

Section 8: Alternative impact fee.

(a) In the event an Owner believes that the impact to the City facilities caused by proposed Impact Construction will be less than the impact established in the Impact Fee Studies and the Impact Fee Rates Schedules provided herein, such Owner may file an alternative Impact Fee Study with the Impact Fee Coordinator. The Owner shall, at the time the alternative impact fee study is submitted, pay to the City six percent of the amount of the impact fee identified on the fee schedule for the most nearly comparable type of land use up to a maximum of $2,000.00. These funds shall be used for review and processing the study. This amount shall not be credited against the impact fee payment. The Impact Fee Coordinator shall review the alternative calculations and make a determination within thirty (30) days of submittal as to whether such calculations comply with the requirements of this Section.

(b) For purposes of any alternative Impact Fee calculation, the Impact Construction shall be presumed to have the maximum impact on City facilities.

(c) The alternative Impact Fee calculation shall be based on data, information or assumptions contained in this Article and the Impact Fee Studies or independent sources, provided that the independent source is a local study supported by local data adequate for the conclusions contained in such study performed pursuant to a generally accepted methodology of planning and local cost impact analysis which is consistent with the Impact Fee Studies.

(d) If the Impact Fee Coordinator determines that the data, information and assumptions utilized by the applicant comply with the requirements of this Section and that the calculation of the Alternative Impact Fee was by a generally accepted methodology that is consistent with the Impact Fee Study, then the alternative Impact Fee shall be paid in lieu of the fees adopted hereunder.

(e) If the Impact Fee Coordinator determines that the data, information and assumptions utilized by the applicant to compute an Alternative Impact Fee do not comply with the requirements of this Section, then the Impact Fee Coordinator shall provide to the Owner by certified mail, return receipt requested, written notification of the rejection and the reasons therefore.

Section 9: Applicability.

Effective April 1, 2024, at 12:00 A.M. City of Port Orange Impact Fees will change. Fee schedule changes will affect new construction and additions. The Impact Fee components that will change are: Parks and Recreation, Transportation, Police, and Fire Rescue. All completed Building Permit applications received after 11:59 P.M. on March 31, 2024, will be subject to the new Impact Fee rates.

Section 10: Developer contribution credit.

(a) A credit shall be granted against the respective Impact Fees imposed hereunder for the donation of land or equipment or for the construction of capital facilities for the City otherwise funded by an Impact Fee, required pursuant to a development order of the City or voluntarily made in connection with an Impact Construction. Such land donation and construction and improvement shall be subject to approval by and acceptance of the Council. No credit shall be given for the donation of land or equipment or construction unless such property is conveyed in fee simple to the City without remuneration.

(a) Prior to payment of the Impact Fee, the Applicant shall submit a proposed plan for donations or contributions to the Capital Facilities to the Impact Fee Coordinator. The proposed plan shall include:

(1) a designation of the Impact Construction for which the plan is being submitted;

(2) a legal description of any land proposed to be donated and a written appraisal prepared in conformity with Subsection (c) of this Section;

(3) a list of the contemplated contributions to the Capital Facilities and an estimate of the proposed construction costs certified by a professional architect or engineer; and

(4) a proposed time schedule for completion of the proposed plan.

(b) Upon receipt of the proposed plan, the Impact Fee Coordinator shall determine:

(1) if such proposed plan is in conformity with contemplated improvements and additions to the Capital Facilities;

(2) if the proposed donation of land or equipment or proposed construction is consistent with the public interest; and

(3) if the proposed time schedule is consistent with the City's capital improvement program for the Capital Facilities.

(c) The amount of developer contribution credit shall be determined as follows:

(1) The value of donated land shall be based upon a written appraisal of fair market value as determined by an M.A.I. Appraiser who was selected and paid for by the Applicant, and who used generally accepted appraisal techniques. If the appraisal does not conform to the requirements of this Article and the applicable administrative regulations, the appraisal shall be corrected and resubmitted. In the event the Impact Fee Coordinator accepts the methodology of the appraisal but disagrees with the appraised value, he may engage another M.A.I. Appraiser at the City's expense and the value shall be an amount equal to the average of the two appraisals. If either party does not accept the average of the two appraisals, a third appraisal shall be obtained, with the cost of said third appraisal being shared equally by the City and the Owner or Applicant. The third appraiser shall be selected by the first two appraisers and the third appraisal shall be binding on the parties.

(2) The actual cost of construction to the Capital Facilities shall be certified by a professional architect or engineer. The credited amount shall applied be on a dollar-for-dollar basis at fair market value, based on the appraisal process above, to reduce the Impact Fee collected for the class of Capital Facilities or Impact Construction for which the contribution was made; provided, however, in no event shall any credit be granted in excess of the actual cost of construction.

(3) The land donations and construction contributions shall only provide improvements or additions to the respective Capital Facilities required to accommodate growth.

(d) The decision of the Impact Fee Coordinator as to whether to accept the proposed plan of conveyance or construction shall be in writing and issued

within sixty (60) days of receipt of the proposed plan from the Applicant. A copy shall be provided to the Applicant and Owner.

(e) If a proposed plan is approved for credit, the Applicant or Owner and the City shall enter into a credit agreement which shall provide for the parties' obligations and responsibilities, including, but not limited to:

(1) The timing of actions to be taken by the Applicant and the obligations and responsibilities of the Applicant, including, but not limited to, the construction standards and requirements to be complied with;

(2) The obligations and responsibilities of the City including, but not limited to, inspection of the project; and

(3) The amount of the credit as determined in accordance with Subsection (c) of this Section.

(f) A credit for the donation of land or a credit for the construction of an improvement or addition to the Capital Facilities shall be granted at such time as the credit agreement is approved and executed by both the City and the Applicant or Owner, subject to review and approval by the City Attorney; provided, however, that the amount of an impact fee credit for construction of improvements shall not be deemed final until the actual costs of construction have been certified by an architect or engineer. In the event the Applicant or Owner fails to convey the property, which is the subject of the donation to the City or such property is not ultimately accepted by the City in accordance with the terms of the credit agreement, then the credit for donation shall be revoked and all Impact Fees shall immediately become due and payable. The administration of said contribution credits shall be the responsibility of the Impact Fee Coordinator.

(g) Any Applicant or Owner who submits a proposed plan pursuant to this Section and desires the immediate issuance of a Certificate of Occupancy prior to approval of the proposed plan shall pay the Impact Fees prior to the issuance of the Certificate of Occupancy. Any difference between the amount paid and the amount due, should the Impact Fee Coordinator approve and accept the proposed plan, shall be refunded to the Applicant or Owner.

(h) Credits provided pursuant to this Section are assignable and transferable from one Impact Construction to another. Notice of any such transfers shall be filed with the Community Development Department at the time of, or before, the issuance of a Certificate of Occupancy, Temporary Certificate of Occupancy, or Letter of Completion on a form provided by the City..

(i) If an Impact Fee is increased, the holder of any credits which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established.

Section 11: Review hearings.

(a) An Applicant or Owner who is required to pay Impact Fees pursuant to this Article shall have the right to request a review hearing before the Council.

(b) Such hearing shall be limited to the review of the following:

(1) The application or calculation of the appropriate Impact Fees pursuant to this Article.

(2) The rejection of an alternative Impact Fee calculation pursuant to Section 8 of this Article.

(3) Denial of an exemption pursuant to Section 5 of this Article.

(4) Any dispute concerning an application for credits pursuant to Section 10 of this Article.

(c) Except as otherwise provided in this Article, such hearing shall be requested by the Applicant or Owner within thirty (30) days of the written notice of the event sought to be reviewed. Failure to request a hearing within such period or as soon thereafter as reasonably possible shall constitute a waiver of the right to a review hearing, unless otherwise approved by the Council.

(d) The request for hearing shall be filed with the Impact Fee Coordinator and shall contain the following:

(1) The name and address of the Applicant or Owner;

(2) The legal description of the property in question;

(3) If issued, the date the Building Permit and Certificate of Occupancy were issued;

(4) A brief description of the nature of the construction being undertaken pursuant to the Building Permit;

(5) If paid, the date the Impact Fee was paid; and

(6) A statement of the reasons why the Applicant or Owner is requesting the hearing.

(e) Upon receipt of such request, a hearing shall be scheduled before the Council at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the Applicant and Owner written notice of the time and place of the hearing. Such hearing shall be held within sixty (60) days of the date the request for hearing was filed.

(f) Such hearing shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence. A determination shall be

in writing and issued within thirty (30) days of the hearing to the Applicant and Owner.

(g) Any Applicant or Owner who requests a hearing pursuant to this Section and desires the immediate issuance of a Building Permit, or if a Building Permit has been issued without the payment of the Impact Fee, shall pay prior to or at the time the request for hearing is filed, the applicable Impact Fee. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any review rights.

(h) An Applicant or Owner may request a hearing under this Section without paying the applicable Impact Fee, but no Building Permit shall be issued until all Impact Fees are paid in the amount initially calculated or the amount approved upon completion of the review provided in this Section.

(i) The City may retain up to 2.0% of all Impact Fees received or the actual costs of collection, whichever is less, as an administrative fee to defray all costs of collection relating to the Impact Fees. The amount of the City's reasonable administrative costs in connection with the collection and administration of these funds shall be documented as part of the City's annual budget process. Any funds retained by the City to offset the City's reasonable administrative costs in connection with the collection and administration of said funds shall be placed in a separate city account which account shall be used solely for administrative expenses incurred by the City in the collection and administration of funds collected from the Impact Fees.

Section 12: Review requirement; audits.

(a) This Chapter and the Impact Fee Studies shall be reviewed by the Council at least once every four (4) years. The initial and each subsequent review shall include but not be limited to all components of the Impact Fee Studies accepted in Section 4 of this Article. The purpose of this review is to ensure that the respective Impact Fees do not exceed the reasonably anticipated costs associated with the improvements and additions necessary to offset the demand generated by the Impact Construction on the respective Capital Facilities. In the event the required review of this Chapter alters or changes the assumptions, conclusions and findings of the Impact Fee Studies adopted by reference in Section 4 of this Article or alters or changes the amount or classification of the Impact Fee, the respective Impact Fee Study shall be amended, supplemented, and/or updated to reflect the assumptions, conclusions and findings of such reviews and Section 4 of this Article shall be amended to adopt by reference such updated study.

(b) Audits of the City's financial statements which are performed by a certified public accountant pursuant to Section 218.39, Florida Statutes, and submitted to the Auditor General shall include an affidavit signed by the Finance Director stating that the City has complied with the requirements of Section

163.31801, Florida Statutes, and that to the best of his or her knowledge, all Impact Fees were collected and expended by the City in full compliance with the spending period provisions of this Article and funds were expended from each impact fee trust account established herein only to acquire, construct or improve specific infrastructure needs.

Section 13: Declaration of exclusion from administrative procedures act.

Nothing contained in this Article shall be construed or interpreted to include the City in the definition of Agency as contained in Section 120.52, Florida Statutes, or to otherwise subject the City to the application of the Administrative Procedure Act, Chapter 120, Florida Statutes. This declaration of intent and exclusion shall apply to all proceedings taken as a result of or pursuant to this Chapter.

Section 14: Notice.

(a) Upon adoption of this Chapter or any ordinance amending this Chapter imposing new Impact Fees, increased Impact Fee rates or revising the Impact Fee Land Use Categories, the City shall publish notice of the effective date of such ordinance and the Impact Fees contemplated thereunder once in a newspaper of general circulation which notice shall include: (1) a brief and general description of the applicable Impact Fee; (2) the Impact Fee Rates to be imposed for each Impact Fee Land Use Category for the applicable Impact Fee; and (3) the date of implementation of the Impact Fee rates set forth in the notice, which date shall be no sooner than ninety (90) calendar days after the date of publication of the notice.

(b) On or prior to the date of such publication, the notice of Impact Fees shall also be posted in the following locations:

(1) On the City website.

(2) On the City Hall Notice Board.

(3) In a conspicuous place near the public counters in the following offices and departments: the Office of the City Clerk, the Building Department and the Planning and Zoning Department.

Section 15: Impact fees as additional or supplemental requirement.

The payment of Impact Fees is additional and supplemental to, and not in substitution of, any other requirements imposed by the City or any other governmental agency on the development or redevelopment of real property or the issuance of a Building Permit, and an Owner or Applicant may be required to pay, pursuant to other ordinances, regulations or policies of the City or any other governmental agency, other fees and/or charges in addition to the Impact Fees

contemplated hereunder. Nothing herein shall be construed as a guarantee of adequate public facilities at the time of development of any particular property.

Section 16: Effect of impact fees on zoning and land development regulations.

The provisions of this Chapter shall not affect, in any manner, the permissible use of the property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the land development regulations or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development.

Section 17: Collection of fees when not paid by inadvertence; liens.

If the Impact Fees are not paid as required by this Article prior to or on the date of the issuance of a Building Permit because of mistake, inadvertence or any other reason, the City shall proceed to collect the Impact Fees as follows:

(a) The City shall serve, by certified mail, return receipt requested, an Impact Fee statement notice upon the Applicant and the Owner at the address appearing on the most recent records maintained by the Property Appraiser of Volusia County. The City also shall attach a copy of the Impact Fee statement notice to the Building Permit posted at the affected construction site if all or a portion of the Building is under construction. Service of the Impact Fee statement notice shall be deemed effective on the date the return receipt indicates the notice was received by either the Applicant or the Owner or the date said notice was attached to the Building Permit, whichever occurs first.

(b) The Impact Fee statement notice shall contain the legal description of the property and shall advise the Applicant and the Owner as follows:

(1) The amount due and the general purpose for which the Impact Fee was imposed.

(2) That the Impact Fee shall be delinquent if not paid and received by the City within 60 calendar days of the date the Impact Fee statement notice is received, excluding the date of receipt, and upon becoming delinquent, shall be subject to the imposition of a delinquent fee and interest on the unpaid amount until paid;

(3) That in the event the Impact Fee becomes delinquent, a lien against the property for which the Building Permit was secured shall be recorded in the Official Records of Volusia County.

(c) The Impact Fee shall be delinquent if, within 60 calendar days from the date of the receipt of the Impact Fee statement notice by either the Applicant or the Owner, or the date said notice was attached to the Building Permit, neither the Impact Fees have been paid and received by the City, nor a hearing requested pursuant to the requirements above. In the event a hearing is

requested, the Impact Fees shall become delinquent if not paid within 30 calendar days from the date the Council determines the amount of Impact Fees due upon the conclusion of such hearing. Said time periods shall be calculated on a calendar day basis, including Sundays and legal holidays, but excluding the date of the earliest receipt of said Impact Fee statement notice or the hearing date of the Council's decision in the event of an appeal. In the event the last day falls on a Sunday or legal holiday, the last due date prior to becoming delinquent shall be the next business day. Upon becoming delinquent, a delinquency fee equal to ten percent of the total Impact Fee imposed shall be assessed. Such total Impact Fee, plus delinquency fee, shall bear interest at the statutory rate for final judgments calculated on a calendar day basis, until paid.

(d) Should the Impact Fee become delinquent, the City shall serve, by certified mail return receipt requested, a "notice of lien" upon the delinquent Applicant if all or a portion of the Building is under construction at the address indicated in the application for the Building Permit, and upon the delinquent Owner at the address appearing on the most recent records maintained by the Property Appraiser of Volusia County. The notice of lien shall notify the delinquent Applicant and Owner that due to their failure to pay the Impact Fee, the City shall file a claim of lien with the Clerk of the Circuit Court in and for Volusia County.

(e) Upon mailing of the notice of lien, the City shall file a claim of lien with the Clerk of the Circuit Court in and for Volusia County for recording in the Official Records of Volusia County. The claim of lien shall contain the legal description of the property, the amount of the delinquent Impact Fees and the date of their imposition. Once recorded, the claim of lien shall constitute a lien against the property described therein. The City shall proceed expeditiously to collect or otherwise enforce said lien.

(f) After the expiration of six months from the date of recording of the claim of lien, as provided herein, a suit may be filed to foreclose said lien. Such foreclosure proceedings shall be instituted, conducted and enforced in conformity with the procedures for the foreclosure of municipal special assessment liens, as set forth in Chapter 173, Florida Statutes, which provisions are hereby incorporated herein in their entirety to the same extent as if such provision were set forth herein verbatim.

(g) The liens for delinquent Impact Fees imposed hereunder shall remain liens, coequal with the lien of all state, county, district and municipal taxes, superior in dignity to all other subsequently filed liens and claims, until paid as provided herein.

(h) The collection and enforcement procedures set forth in this Section shall be cumulative with, supplemental to and in addition to, any applicable procedures provided in any other ordinances or administrative regulations of the City or any applicable law or administrative regulation of the State of Florida. Failure of the City to follow the procedure set forth in this Section shall not

constitute a waiver of its rights to proceed under any other ordinances or administrative regulations of the City or any applicable law or administrative regulation of the State of Florida.

(i) Notwithstanding anything herein to the contrary, the City may enforce collection of delinquent Impact Fees in any manner authorized by law.

Section 18: Impact Fee Refunds. Impact Fees collected pursuant to this Chapter shall be returned to the then current Owner of the property on behalf of which such fee was paid, if such fees have not been expended or Encumbered by the end of the calendar quarter immediately following the six years from the date upon which such fees were paid. Refunds shall be made only in accordance with the following procedure:

(1) The then present Owner shall petition the City for the refund within one hundred eighty (180) days following the end of the calendar quarter immediately following six years from the date on which the fee was received. Failure to submit an application for refund within such period shall constitute a waiver of any right to a refund.

(2) The petition for refund shall be submitted to the Impact Fee Coordinator and shall contain:

a. A notarized sworn statement that the petitioner is the present Owner of the property on behalf of which the Impact Fee was paid;

b. A copy of the dated receipt issued for payment of the Impact Fee or such other record as would evidence payment; and

c. A certified copy of the latest recorded deed or a copy of the most recent ad valorem tax bill.

(3) Within three (3) months from the date of receipt of a petition for refund, the Impact Fee Coordinator will advise the petitioner and the Council of the status of the Impact Fee requested for refund, and if such Impact Fee has not been expended or Encumbered within the applicable time period, then such Impact Fee shall be returned to the petitioner. For the purposes of this Section, fees collected shall be deemed to be spent or Encumbered on the basis of the first fee in shall be the first fee out.

ARTICLE II: IMPACT FEES

DIVISION 1. FIRE/RESCUE IMPACT FEE

Section 1: Definitions.

In addition to the general definitions contained in Article I of this Chapter, the following terms shall have the following meanings in the application of the Fire/Rescue Impact Fee.

"Fire/Rescue Facilities" shall mean the Buildings, land, vehicles, apparatus, and equipment used by the City Fire Department in the suppression and prevention of fires, responses to disasters and the handling of incidents involving hazardous materials.

"Fire/Rescue Impact Construction" shall mean land construction designed or intended to permit a use of the land which will contain more Dwelling Units, Buildings or Square Footage than the existing use of land, or to otherwise change the use of the land in a manner that increases the impact upon the Fire/Rescue Facilities.

"Fire/Rescue Impact Fee" shall mean the Fire/Rescue Impact Fee imposed by the City pursuant to Section 2 of this Division.

"Fire/Rescue Impact Fee Land Use Category" shall mean those categories of land use incorporated in the Fire/Rescue Impact Fee Rate Schedule in Section 2 of this Division.

"Fire/Rescue Impact Fee Study" shall mean the 2023 Municipal Impact Fee Study dated June 19, 2023, prepared by Raftelis Financial Consultants, Inc. as such study may be amended and supplemented.

Section 2: Imposition.

(a) The data set forth in the Fire/Rescue Impact Fee Study which was employed in the calculation of the Fire/Rescue Impact Fee rates adopted herein is the most recent and localized data available for the Fire/Rescue Facilities.

(b) The Council specifically finds that Fire/Rescue Facilities benefit all residents and businesses within the City and, therefore, the Fire/Rescue Impact Fee shall be imposed on all Fire/Rescue Impact Construction in all incorporated areas of the City.

(c) All Fire/Rescue Impact Construction occurring within the City for which a completed Building Permit application is submitted shall pay the following Fire/Rescue Impact Fee rates:

FIRE/RESCUE IMPACT FEE RATE SCHEDULE

Land Use Category	Impact Unit	Completed Building Permit Application Submitted between 4/1/24 and 3/31/25	Completed Building Permit Application Submitted between 4/1/25 and 3/31/26	Completed Building Permit Application Submitted between 4/1/26 and 3/31/27	Completed Building Permit Application Submitted on or after 4/1/27
Single Family Residential	Per Dwelling Unit	$303.75	$337.50	$371.25	$405.00
Multi-Family Residential	Per Dwelling Unit	$303.75	$337.50	$371.25	$405.00
Industrial/ Warehousing	Per 1,000 Sq. Ft.	$146.00	$146.00	$146.00	$146.00
Hotel	Per Room	$74.25	$82.50	$90.75	$99.00
Recreational	Per 1,000 Sq. Ft.	$225.00	$250.00	$275.00	$300.00
Institutional	Per 1,000 Sq. Ft.	$225.00	$250.00	$275.00	$300.00
Office Building	Per 1,000 Sq. Ft.	$225.00	$250.00	$275.00	$300.00
Retail	Per 1,000 Sq. Ft.	$225.00	$250.00	$275.00	$300.00
Assisted Living Facility	Per Bed	$194.00	$214.00	$234.00	$254.00

(d) The land uses set forth in the rate schedule above are further described in the Fire/Rescue Impact Fee Study and as follows.

(1) Industrial/Manufacturing – Generally includes Light Industrial, Heavy Industrial, Manufacturing, Mini-warehousing, and Industrial Parks.

(2) Hotel – A place of lodging that provides sleeping accommodation. Includes suites hotel, motel, resort hotels, etc.

(3) Recreational – Generally includes cultural organization facilities, camps, clubs, lodges, union halls, tourist attractions, and exhibits.

(4) Institutional – Generally includes schools, daycares, religious facilities, medical clinics, medical office buildings, and hospitals.

(5) Office Building – This land use consists of various types of office building.

(6) Retail – Generally includes all types of retail establishments such as shopping centers, stand-alone stores, grocery stores, department stores, auto repair shops, restaurants, and several others.

(7) Assisted Living Facility – Generally consists of assisted living facilities including: senior adult housing, congregate care facilities, retirement homes, nursing homes, and similar land uses.

(e) Except as otherwise provided in this Article, the Fire/Rescue Impact Fee shall be paid directly to the City prior to the issuance of a Building Permit.

Section 3: Individual calculation of Fire/Rescue impact fees.

(a) In the event a Fire/Rescue Impact Construction involves a land use not contemplated under the Fire/Rescue Impact Fee Land Use Categories set forth in Section 2 of this Division, the Impact Fee Coordinator shall determine the impact to be generated by the proposed Fire/Rescue Impact Construction and shall calculate the appropriate Fire/Rescue Impact Fees utilizing the methodology contained in the Fire/Rescue Impact Fee Study. The Impact Fee Coordinator shall utilize as a standard in this determination the impact assumed in the most similar Fire/Rescue Impact Fee Land Use Category or any other generally accepted standard source of planning and cost impact analysis.

(a) In the event a Fire/Rescue Impact Construction involves mixed use or more than one Fire/Rescue Impact Fee Land Use Category, the Impact Fee Coordinator shall calculate the Fire/Rescue Impact Fees based upon the impact to be generated by each separate Fire/Rescue Impact Fee Land Use Category included in the proposed Fire/Rescue Impact Construction.

Section 4: Use of monies.

(a) The Council hereby creates a separate trust account for the Fire/Rescue Impact Fees, to be designated as the "Fire/Rescue Impact Fee Capital Projects Fund," which shall be established and maintained separate and apart from all other accounts of the City. All Fire/Rescue Impact Fees shall be deposited into such trust account immediately upon receipt.

(b) The monies deposited into the Fire/Rescue Impact Fee Capital Projects Fund, as established in paragraph (a) above, are hereby earmarked and shall be used solely for the purpose of acquiring, constructing or improving growth-necessitated Capital Facilities for the City Fire Department, including, but not limited to:

(1) Land acquisition, including any cost of acquisition;

(2) Fees for professional services, including but not limited to architecture, engineering, surveying, landscaping, soils and material testing, legal, appraisals, and construction management;

(3) Design and construction documents;

(4) Site development and on-site and off-site improvements incidental to construction thereto;

(5) Any permitting or application fees necessary for the construction;

(6) Construction and design of new Fire Rescue Facilities, including related drainage facilities and relocation of utilities, and other related construction costs required to bring the facilities into service;

(7) Landscaping;

(8) Acquisition of apparatus, vehicles and equipment necessary to outfit the vehicles for their official use, or other capital equipment utilized by the City Fire Department;

(9) Repayment of monies borrowed from any budgetary fund of the City which were used to fund growth necessitated capital improvements to the Fire/Rescue Facilities as provided herein, subject to paragraph (c) below;

(10) Costs related to the administration, collection and implementation of the Fire/Rescue Impact Fee; and

(11) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide funds to construct or acquire growth necessitated capital improvements or additions to the Fire/Rescue Facilities as provided herein, subject to paragraph (c) below; and

(12) Any other expenditures of the Fire/Rescue Impact Fee as allowed by law.

(c) Revenues generated by the Fire/Rescue Impact Fee shall not be used, in whole or in part, to pay existing debt for the Fire/Rescue Facilities or for previously approved projects related to the Fire/Rescue Facilities unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by Fire/Rescue Impact Construction.

(d) The monies deposited into the Fire/Rescue Impact Fee Capital Projects Fund shall be used solely to provide improvements or additions to the Fire/Rescue Facilities required to serve new growth as projected in the Fire/Rescue Impact Fee Study. Funds on deposit in the Fire/Rescue Impact Fee Capital Projects Fund shall not be used for any expenditure that would be classified as a maintenance or repair expense. A report will be prepared annually by the City reflecting the collection and expenditures of Fire/Rescue Impact Fees by the City during the previous year.

(e) Any Fire/Rescue Impact Fee Funds on deposit which are not immediately necessary for expenditure may be held in an interest-bearing account or invested by the City. All income derived from such interest on investments shall be deposited in the Fire/Rescue Impact Fee Capital Projects Fund and used as provided herein.

DIVISION 2. PARKS AND RECREATION IMPACT FEE

Section 1: Definitions.

In addition to the general definitions contained in Article I of this Chapter, the following terms shall have the following meanings in the application of the Parks and Recreation Impact Fee.

"Parks and Recreation Facilities" shall mean the City park, recreation and open space facilities provided by the City for use and enjoyment by the public including but not limited to active parks, passive parks, water access sites, and associated recreational facilities and buildings.

"Parks and Recreation Impact Construction" shall mean land construction designed or intended to permit a use of the land which will contain more Dwelling Units, Buildings or Square Footage than the existing use of land, or to otherwise change the use of the land in a manner that increases the impact upon the Parks and Recreation Facilities.

"Parks and Recreation Impact Fee" shall mean the Parks and Recreation Impact Fee imposed by the City pursuant to Section 2 of this Division.

"Parks and Recreation Impact Fee Land Use Category" shall mean those categories of land use incorporated in the Parks and Recreation Impact Fee Rate Schedule in Section 2 of this Division.

"Parks and Recreation Impact Fee Study" shall mean the 2023 Municipal Impact Fee Study dated June 19, 2023, prepared by Raftelis Financial Consultants, Inc. as such study may be amended and supplemented.

Section 2: Imposition.

(a) The data set forth in the Parks and Recreation Impact Fee Study which was employed in the calculation of the Parks and Recreation Impact Fee rates imposed herein is the most recent and localized data available for the Parks and Recreation Facilities.

(b) The Council specifically finds that the Parks and Recreation Facilities benefit all residents and residential properties within the City and, therefore, the Parks and Recreation Impact Fee shall be imposed on all Parks and Recreation Impact Construction in all incorporated areas of the City.

(c) All Parks and Recreation Impact Construction occurring within the City for which a completed Building Permit application is submitted shall pay the following Parks and Recreation Impact Fee rates:

PARKS AND RECREATION IMPACT FEE RATE SCHEDULE

Land Use Category	Impact Unit	Completed Building Permit Application Submitted between 4/1/24 and 3/31/25	Completed Building Permit Application Submitted between 4/1/25 and 3/31/26	Completed Building Permit Application Submitted between 4/1/26 and 3/31/27	Completed Building Permit Application Submitted on or after 4/1/27
Single Family Residential	Per Dwelling Unit	$1,632.75	$1,740.50	$1,848.25	$1,956.00
Mobile Home	Per Dwelling Unit	$1,263.00	$1,578.74	$1,736.61	$1,894.48
Townhomes and Duplexes	Per Dwelling Unit	$1,452.50	$1,467.00	$1,467.00	$1,467.00
Multi-Family Residential	Per Dwelling Unit	$1,408.50	$1,467.00	$1,467.00	$1,467.00

(d) The land uses set forth in the rate schedule above are further described in the Parks and Recreation Impact Fee Study.

(e) Except as otherwise provided in this Article, the Parks and Recreation Impact Fee shall be paid directly to the City on the date of and as a condition precedent to issuance of a Building Permit.

Section 3: Individual calculation of Parks and Recreation Impact Fees.

(a) In the event a Parks and Recreation Impact Construction involves a land use not contemplated under the Parks and Recreation Impact Fee Land Use Categories set forth in Section 2 of this Division, the Impact Fee Coordinator shall determine the impact to be generated by the proposed Parks and Recreation Impact Construction and shall calculate the appropriate Parks and Recreation Impact Fees utilizing the methodology contained in the Parks and Recreation Impact Fee Study. The Impact Fee Coordinator shall utilize as a standard in this determination the impact assumed in the most similar Parks and Recreation Impact Fee Land Use Category or any other generally accepted standard source of planning and cost impact analysis.

(b) In the event a Parks and Recreation Impact Construction involves mixed use or more than one Parks and Recreation Impact Fee Land Use Category, the Impact Fee Coordinator shall calculate the Parks and Recreation Impact Fees based upon the impact to be generated by each separate Parks and Recreation Impact Fee Land Use Category included in the proposed Parks and Recreation Impact Construction.

Section 4: Use of Monies.

(a) The Council hereby creates a separate trust account for the Parks and Recreation Impact Fees, to be designated as the "Parks and Recreation Impact Fee Fund," which shall be established and maintained separate and apart from all other accounts of the City. All Parks and Recreation Impact Fees shall be deposited into such trust account immediately upon receipt.

(b) The monies deposited into the Parks and Recreation Impact Fee Fund, as established in paragraph (a) above, are hereby earmarked and shall be used solely for the purpose of acquiring, constructing or improving growth-necessitated Capital Facilities related to parks, recreation and open space, including, but not limited to:

(1) Land acquisition, including any cost of acquisition;

(2) Fees for professional services, including but not limited to architecture, engineering, surveying, landscaping, soils and material testing, legal, appraisals, and construction management;

(3) Design and construction documents;

(4) Site development and on-site and off-site improvements incidental to construction thereto;

(5) Any permitting or application fees necessary for the construction;

(6) Construction and design of new Parks and Recreation Facilities, including related drainage facilities and relocation of utilities, and other related construction costs required to bring the facilities into service;

(7) Landscaping;

(8) Acquisition of apparatus, vehicles and equipment necessary to outfit the vehicles for their official use, or other capital equipment utilized by the City in providing Parks and Recreation Facilities;

(9) Repayment of monies borrowed from any budgetary fund of the City which were used to fund growth necessitated capital improvements to the Parks and Recreation Facilities as provided herein, subject to paragraph (c) below;

(10) Costs related to the administration, collection and implementation of the Parks and Recreation Impact Fee; and

(11) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide funds to construct or acquire growth necessitated capital improvements or additions to the Parks and Recreation Facilities System as provided herein, subject to paragraph (c) below; and

(12) Any other expenditures of the Parks and Recreation Impact Fee as allowed by law.

(c) Revenues generated by the Parks and Recreation Impact Fee shall not be used, in whole or in part, to pay existing debt for the Parks and Recreation Facilities or for previously approved projects related to the Parks and Recreation Facilities unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by Parks and Recreation Impact Construction.

(d) The monies deposited into the Parks and Recreation Impact Fee Fund shall be used solely to provide improvements or additions to the Parks and Recreation Facilities required to serve new growth as projected in the Parks and Recreation Impact Fee Study. Funds on deposit in the Parks and Recreation Impact Fee Fund shall not be used for any expenditure that would be classified as a maintenance or repair expense. A report will be prepared annually by the City reflecting the collection and expenditures of Parks and Recreation Impact Fees by the City during the previous year.

(e) Any Parks and Recreation Impact Fee Funds on deposit which are not immediately necessary for expenditure may be held in an interest-bearing account or invested by the City. All income derived from such interest on investments shall be deposited in the Parks and Recreation Impact Fee Fund and used as provided herein.

DIVISION 3. POLICE IMPACT FEE

Section 1: Definitions.

In addition to the general definitions contained in Section 2 of Article I, the following terms shall have the following meanings in the application of the Police Impact Fee.

"Police Facilities" shall mean the Buildings, land, vehicles, apparatus and equipment used by the City Police Department in the apprehension, prevention or investigation of criminal violations or illegal actions within the City.

"Police Impact Construction" shall mean land construction designed or intended to permit a use of the land which will contain more Dwelling Units, Buildings or Square Footage than the existing use of land, or to otherwise change the use of the land in a manner that increases the impact upon the Police Facilities.

"Police Impact Fee" shall mean the Police Impact Fee imposed by the City pursuant to Section 2 of this Division.

"Police Impact Fee Land Use Category" shall mean those categories of land use incorporated in the Police Impact Fee Rate Schedule in Section 2 of this Division.

"Police Impact Fee Study" shall mean the 2023 Municipal Impact Fee Study dated June 19, 2023, prepared by Raftelis Financial Consultants, Inc. as such study may be amended and supplemented.

Section 2: Imposition.

(a) The data set forth in the Police Impact Fee Study which was employed in the calculation of the City Police Impact Fee rates adopted herein is the most recent and localized data available for the Police Facilities.

(b) The Council specifically finds that the Police Facilities benefits all residents and businesses within the City and, therefore, the Police Impact Fee shall be imposed on all Police Impact Construction in all incorporated areas of the City.

(c) All Police Impact Construction occurring within the City for which a completed Building Permit application is submitted shall pay the following Police Impact Fee rates:

POLICE IMPACT FEE RATE SCHEDULE

Land Use Category	Impact Unit	Completed Building Permit Application Submitted between 4/1/24 and 3/31/25	Completed Building Permit Application Submitted between 4/1/25 and 3/31/26	Completed Building Permit Application Submitted between 4/1/26 and 3/31/27	Completed Building Permit Application Submitted on or after 4/1/27
Single Family Residential	Per Dwelling Unit	$526.00	$526.00	$526.00	$526.00
Multi-Family Residential	Per Dwelling Unit	$393.00	$393.00	$393.00	$393.00
Industrial/ Warehousing	Per 1,000 Sq. Ft.	$139.00	$139.00	$139.00	$139.00
Hotel	Per Room	$260.00	$260.00	$260.00	$260.00
Recreational	Per 1,000 Sq. Ft.	$395.00	$395.00	$395.00	$395.00
Institutional	Per 1,000 Sq. Ft.	$399.00	$399.00	$399.00	$399.00
Office Building	Per 1,000 Sq. Ft.	$317.00	$317.00	$317.00	$317.00
Retail	Per 1,000 Sq. Ft.	$727.00	$727.00	$727.00	$727.00
Assisted Living Facility	Per Bed	$241.00	$241.00	$241.00	$241.00

(d) The land uses set forth in the rate schedule above are further described in the Police Impact Fee Study and as follows:

(1) Industrial/Manufacturing – Generally includes Light Industrial, Heavy Industrial, Manufacturing, Mini-warehousing, and Industrial Parks.

(2) Hotel – A place of lodging that provides sleeping accommodation. Includes suites hotel, motel, resort hotels, etc.

(3) Recreational – Generally includes cultural organization facilities, camps, clubs, lodges, union halls, tourist attractions, and exhibits.

(4) Institutional – Generally includes schools, daycares, religious facilities, medical clinics, medical office buildings, and hospitals.

(5) Office Building – This land use consists of various types of office building.

(6) Retail – Generally includes all types of retail establishments such as shopping centers, stand-alone stores, grocery stores, department stores, auto repair shops, restaurants, and several others.

(7) Assisted Living Facility – Generally consists of assisted living facilities including: senior adult housing, congregate care facilities, retirement homes, nursing homes, and similar land uses.

(e) Except as otherwise provided in this Article, the Police Impact Fee shall be paid directly to the City on the date of and as a condition precedent to issuance of a Building Permit.

Section 3: Individual calculation of police impact fees.

(a) In the event a Police Impact Construction involves a land use not contemplated under the Police Impact Fee Land Use Categories set forth in Section 2 of this Division, the Impact Fee Coordinator shall determine the impact to be generated by the proposed Police Impact Construction and shall calculate the appropriate Police Impact Fees utilizing the methodology contained in the Impact Fee Study. The Impact Fee Coordinator shall utilize as a standard in this determination the impact assumed in the most similar Police Impact Fee Land Use Category or any other generally accepted standard source of planning and cost impact analysis.

(b) In the event a Police Impact Construction involves more than one Police Impact Fee Land Use Category, the Impact Fee Coordinator shall calculate the Police Impact Fees based upon the impact to be generated by each separate Police Impact Fee Land Use Category included in the proposed Police Impact Construction.

Section 4: Use of monies.

(a) The Council hereby creates a separate trust account for the Police Impact Fees, to be designated as the "Police Impact Fee Capital Projects Fund," which shall be established and maintained separate and apart from all other accounts of the City. All Police Impact Fees shall be deposited into such trust account immediately upon receipt.

(b) The monies deposited into the Police Impact Fee Capital Projects Fund, as established in paragraph (a) above, are hereby earmarked and shall be used solely for the purpose of acquiring, constructing or improving growth-necessitated Capital Facilities for the City Police Department, including, but not limited to:

(1) Land acquisition, including any cost of acquisition;

(2) Fees for professional services, including but not limited to architecture, engineering, surveying, landscaping, soils and material testing, legal, appraisals, and construction management;

(3) Design and construction documents;

(4) Site development and on-site and off-site improvements incidental to construction thereto;

(5) Any permitting or application fees necessary for the construction;

(6) Construction and design of new Police Facilities, including related drainage facilities and relocation of utilities, and other related construction costs required to bring the facilities into service;

(7) Landscaping;

(8) Acquisition of apparatus, vehicles and equipment necessary to outfit the vehicles for their official use, or other capital equipment utilized by the City Police Department;

(9) Repayment of monies borrowed from any budgetary fund of the City which were used to fund growth necessitated capital improvements to the Police Facilities as provided herein, subject to paragraph (c) below;

(10) Costs related to the administration, collection and implementation of the Police Impact Fee; and

(11) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide funds to construct or acquire growth necessitated capital improvements or additions to the Police Facilities as provided herein, subject to paragraph (c) below; and

(12) Any other expenditures of the Police Impact Fee as allowed by law.

(c) Revenues generated by the Police Impact Fee shall not be used, in whole or in part, to pay existing debt for the Police Facilities or for previously approved projects related to the Police Facilities unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by Police Impact Construction.

(d) The monies deposited into the Police Impact Fee Capital Projects Fund shall be used solely to provide improvements or additions to the Police Facilities required to serve new growth as projected in the Police Impact Fee Study. Funds on deposit in the Police Impact Fee Capital Projects Fund shall not be used for any expenditure that would be classified as a maintenance or repair expense. A report will be prepared annually by the City reflecting the collection and expenditures of Police Impact Fees by the City during the previous year.

(e) Any Police Impact Fee Funds on deposit which are not immediately necessary for expenditure may be held in an interest-bearing account or invested by the City. All income derived from such investments shall be deposited in the Police Impact Fee Capital Projects Fund and used as provided herein.

DIVISION 4. TRANSPORTATION IMPACT FEE

Section 1: Definitions.

In addition to the general definitions contained in Section 2 of Article I, the following terms shall have the following meanings in the application of the Transportation Impact Fee.

"Transportation Facilities" shall mean the Capital Facilities related to the City's transportation infrastructure which may include but are not limited to rights of way, roads, through lanes, turn lanes, bridges, traffic signals, curbs, medians and shoulders.

"Transportation Impact Construction" shall mean land construction designed or intended to permit a use of the land which will contain more Dwelling Units, Buildings or Square Footage than the existing use of land, or to otherwise change the use of the land in a manner that increases the impact upon the Transportation Facilities.

"Transportation Impact Fee" shall mean the Transportation Impact Fee imposed by the City pursuant to Section 2 of this Division.

"Transportation Impact Fee Land Use Category" shall mean those categories of land use incorporated in the Transportation Impact Fee Rate Schedule in Section 2 of this Article.

"Transportation Impact Fee Study" shall mean the Transportation Impact Fee Study Update dated June 2023, prepared by Raftelis Financial Consultants, Inc., as may amended and supplemented from time to time.

Section 2: Imposition.

(a) The data set forth in the Transportation Impact Fee Study which was employed in the calculation of the Transportation Impact Fee rates imposed herein is the most recent and localized data available for the Capital Facilities related to the City's transportation infrastructure.

(b) The Council specifically finds that such Capital Facilities benefit all residents and businesses within the City and, therefore, the Transportation Impact Fee shall be imposed on all Transportation Impact Construction in all incorporated areas of the City.

(c) All Transportation Impact Construction occurring within the City for which a completed Building Permit application is submitted shall pay the following Transportation Impact Fee rates:

TRANSPORTATION IMPACT FEE RATE SCHEDULE

Land Use Category	Impact Unit	Completed Building Permit Application Submitted between 4/1/24 and 3/31/25	Completed Building Permit Application Submitted between 4/1/25 and 3/31/26	Completed Building Permit Application Submitted between 4/1/26 and 3/31/27	Completed Building Permit Application Submitted on or after 4/1/27
General Light Industrial	Per 1,000 Sq. Ft.	$401.63	$446.25	$490.88	$535.50
Industrial Park	Per 1,000 Sq. Ft.	$415	$415	$415	$415
Manufacturing	Per 1,000 Sq. Ft.	$406.13	$451.25	$496.38	$541.50
Warehousing	Per 1,000 Sq. Ft.	$211	$211	$211	$211
Mini-Warehouse	Per 1,000 Sq. Ft.	$158.00	$165	$172	$179
Single-Family Detached Housing	Per Dwelling Unit	$992.26	$1,082.51	$1,172.77	$1,263
Multifamily Housing (Low-Rise)	Per Dwelling Unit	$724.43	$783.87	$843.30	$903
Multifamily Housing (Mid-Rise)	Per Dwelling Unit	$608	$608	$608	$608
Multifamily Housing (High-Rise)	Per Dwelling Unit	$608	$608	$608	$608
		$392.63	$436.25	$479.88	$523.50
Low-Rise Residential with Ground-Floor Commercial	Gross Floor Area (1-25K Sq. Ft.)	$452	$461	$461	$461
Mid-Rise Residential with Ground-Floor Commercial	Gross Floor Area (1-25K Sq. Ft.)	$461	$461	$461	$461
High-Rise Residential with Ground-Floor Commercial	Gross Floor Area (1-25K Sq. Ft.)	$461	$461	$461	$461
Mobile Home Park	Per Dwelling Unit	$393	$436	$480	$524
Hotel	Per Room	$676.25	$687.50	$698.75	$710
Motel	Per Room	$344	$344	$344	$344
Campground/ Recreational Vehicle Park	Per Site	$311.75	$328.50	$345.25	$362
Marina	Per Berth	$323	$323	$323	$323
Movie Theater	Per Screen	$4,693.50	$5,215.00	$5,736.50	$6,258
Health/Fitness Club	Per 1,000 Sq. Ft.	$4,344	$4,344	$4,344	$4,344

Place of Worship	Per 1,000 Sq. Ft.	$591.75	$657.50	$723.25	$789
Day Care Center	Per 1,000 Sq. Ft.	$2,074.50	$2,305	$2,535.50	$2,766
Hospital	Per 1,000 Sq. Ft.	$1,180.37	$1,267.75	$1,355.12	$1,442.50
Nursing Home/Assisted Living Facility	Per Bed	$113.63	$126.25	$138.88	$151.50
Clinic	Per 1,000 Sq. Ft.	$5,036	$5,036	$5,036	$5,036
Animal Hospital/ Veterinary Clinic	Per 1,000 Sq. Ft.	$988.88	$1,098.75	$1,208.63	$1,318.50
General Office Building > 10K Sq. Ft.)	Per 1,000 Sq. Ft.	$1,502	$1,502	$1,502	$1,502
Small Office Building (≤10K Sq. Ft.)	Per 1,000 Sq. Ft.	$1,987	$1,987	$1,987	$1,987
Corporate Headquarters Bldg.	Per 1,000 Sq. Ft.	$587.25	$652.50	$717.75	$783
Medical-Dental Office Building	Per 1,000 Sq. Ft.	$2,894.63	$3,216.25	$3,537.88	$3,860
Office Park	Per 1,000 Sq. Ft.	$1,513	$1,529	$1,529	$1,529
Research Center	Per 1,000 Sq. Ft.	$716.63	$796.25	$875.88	$956
Business Park	Per 1,000 Sq. Ft.	$1,530.50	$1,662	$1,662	$1,662
Building Materials and Lumber Store	Per 1,000 Sq. Ft.	$1,632	$1,632	$1,632	$1,632
Hardware/Paint Store	Per 1,000 Sq. Ft.	$772	$772	$772	$772
Nursery (Garden Center)	Per 1,000 Sq. Ft.	$6,517	$6,517	$6,517	$6,517
Retail/Shopping Center (>150K Sq. Ft.)	Per 1,000 Sq. Ft.	$2,380.66	$2,544.32	$2,707.98	$2,872
Retail/Shopping Plaza (40-150K Sq. Ft.)	Per 1,000 Sq. Ft.	$7,332	$7,332	$7,332	$7,332
Retail/Strip Retail Plaza (<40K Sq. Ft.)	Per 1,000 Sq. Ft.	$4,225	$4,225	$4,225	$4,225
Automobile Sales (New)	Per 1,000 Sq. Ft.	$2,227.54	$2,421.08	$2,614.62	$2,808
Automobile Sales (Used)	Per 1,000 Sq. Ft.	$2,207.87	$2,381.74	$2,555.62	$2,729
Tire Superstore	Per 1,000 Sq. Ft.	$1,099.13	$1,221.25	$1,343.38	$1,466
Supermarket	Per 1,000 Sq. Ft.	$2,421.00	$2,690	$2,959	$3,228
Convenience Store (w/o gas station)	Per 1,000 Sq. Ft.	$7,418.24	$8,049.48	$8,680.72	$9,322
Home Improvement Superstore	Per 1,000 Sq. Ft.	$1,433.25	$1,592.50	$1,751.75	$1,911

Pharmacy/Drugstore without Drive-Through Window	Per 1,000 Sq. Ft.	$3,774	$3,774	$3,774	$3,774
Pharmacy/Drugstore with Drive-Through Window	Per 1,000 Sq. Ft.	$1,568.25	$1,742.50	$1,916.75	$2,091
Marijuana Dispensary	Per 1,000 Sq. Ft.	$8,737	$8,737	$8,737	$8,737
Furniture Store	Per 1,000 Sq. Ft.	$280.13	$311.25	$342.38	$374
Liquor Store	Per 1,000 Sq. Ft.	$6,516	$6,516	$6,516	$6,516
Walk-in Bank	Per 1,000 Sq. Ft.	$3,416.63	$3,796.25	$4,175.88	$4,555.50
Drive-in Bank	Per 1,000 Sq. Ft.	$4,368	$4,368	$4,368	$4,368
Fine Dining Restaurant	Per 1,000 Sq. Ft.	$3,869.37	$4,169.74	$4,470.12	$4,770
High-Turnover (Sit-Down) Restaurant	Per 1,000 Sq. Ft.	$5,663.50	$6,209	$6,209	$6,209
Fast-Food Restaurant without Drive-Through Window	Per 1,000 Sq. Ft.	$10,863.81	$11,788.63	$12,713.44	$13,638.25
Fast-Food Restaurant with Drive-Through Window	Per 1,000 Sq. Ft.	$10,556	$11,173	$11,173	$11,173
Fast-Food Restaurant with Drive-Through Window and No Indoor Seating	Per 1,000 Sq. Ft.	$16,829	$16,829	$16,829	$16,829
Coffee/Donut Shop without Drive-Through Window	Per 1,000 Sq. Ft.	$3,245	$3,245	$3,245	$3,245
Coffee/Donut Shop with Drive-Through Window	Per 1,000 Sq. Ft.	$2,834	$2,834	$2,834	$2,834
Coffee/Donut Shop with Drive-Through Window and No Indoor Seating	Per Lane	$951	$951	$951	$951
Quick Lubrication Vehicle Shop	Per Position	$1,845	$2,050	$2,255	$2,460
Gasoline/Service Station	Per Position	$4,953	$4,953	$4,953	$4,953
Convenience Store/Gas Station	Per Position	$5,998.50	$6,196	$6,196	$6,196
Self-Service Car Wash	Per Wash Stall	$3,526	$3,847	$3,847	$3,847
Automated Car Wash	Per 1,000 Sq. Ft.	$12,487	$12,487	$12,487	$12,487
Brewery Tap Room	Per 1,000 Sq. Ft.	$4,787	$4,787	$4,787	$4,787

Drinking Place	Per 1,000 Sq. Ft.	$7,032.83	$7,626.66	$8,220.49	$8,814

(d) Except as otherwise provided in this Article, the Transportation Impact Fee shall be paid directly to the City on the date of and as a condition precedent to issuance of a Building Permit.

Section 3. Individual calculation of transportation impact fees.

(a) In the event a Transportation Impact Construction involves a land use not contemplated under the Transportation Impact Fee Land Use Categories set forth in Section 2 of this Division, the Impact Fee Coordinator shall determine the impact to be generated by the proposed Transportation Impact Construction and shall calculate the appropriate Transportation Impact Fees utilizing the methodology contained in the Transportation Impact Fee Study. The Impact Fee Coordinator shall utilize as a standard in this determination the impact assumed in the most similar Transportation Impact Fee Land Use Category or any other generally accepted standard source of planning and cost impact analysis.

(b) In the event a Transportation Impact Construction involves mixed use or more than one Transportation Impact Fee Land Use Category, the Impact Fee Coordinator shall calculate the Transportation Impact Fees based upon the impact to be generated by each separate Transportation Impact Fee Land Use Category included in the proposed Transportation Impact Construction.

Section 4: Use of monies.

(a) The Council hereby creates a separate trust account for the Transportation Impact Fees, to be designated as the "Transportation Impact Fee Capital Projects Fund," which shall be established and maintained separate and apart from all other accounts of the City. All Transportation Impact Fees shall be deposited into such trust account immediately upon receipt.

(b) The monies deposited into the Transportation Impact Fee Fund as established in paragraph (a) above, are hereby earmarked and shall be used solely for the purpose of acquiring, constructing or improving growth-necessitated Capital Facilities for the City's transportation infrastructure, including, but not limited to:

(1) Land acquisition, including any cost of acquisition;

(2) Fees for professional services, including but not limited to architecture, engineering, surveying, landscaping, soils and material testing, legal, appraisals, and construction management;

(3) Design and construction documents;

(4) Site development and on-site and off-site improvements incidental to construction thereto;

(5) Any permitting or application fees necessary for the construction;

(6) Construction and design of new Transportation Facilities, including related drainage facilities and relocation of utilities, and other related construction costs required to bring the facilities into service;

(7) Landscaping;

(8) Acquisition of apparatus, vehicles and equipment necessary to outfit the vehicles for their official use, or other capital equipment utilized by the City in developing and providing transportation infrastructure;

(9) Repayment of monies borrowed from any budgetary fund of the City which were used to fund growth necessitated capital improvements to City transportation infrastructure as provided herein, subject to paragraph (c) below;

(10) Costs related to the administration, collection and implementation of the Transportation Rescue Impact Fee;

(11) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide funds to construct or acquire growth necessitated capital improvements or additions to City transportation infrastructure as provided herein, subject to paragraph (c) below;

(12) Construction of new sidewalks, bikeways, trails and similar facilities along existing or new City roads when part of a capital improvement project adding new capacity to such road; and

(13) Any other expenditures of the Transportation Impact Fee as allowed by law.

(c) Revenues generated by the Transportation Impact Fee shall not be used, in whole or in part, to pay existing debt for transportation infrastructure or for previously approved projects related to transportation infrastructure unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by Transportation Impact Construction.

(d) The monies deposited into the Transportation Impact Fee Fund shall be used solely to provide improvements or additions to City transportation infrastructure required to serve new growth as projected in the Transportation Impact Fee Study. Funds on deposit in the Transportation Impact Fee Fund shall not be used for any expenditure that would be classified as a maintenance or repair expense. A report will be prepared annually by the City reflecting the collection and expenditures of Transportation Impact Fees by the City during the previous year.

(e) Any funds on deposit in the Transportation Impact Fee Fund which are not immediately necessary for expenditure may be held in an interest-bearing account or invested by the City. All income derived from such interest on

investments shall be deposited in the Transportation Impact Fee Fund and used as provided herein.

ARTICLE III: RESERVED

* * *

Section 2: Repeal of Ordinances in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Severability Clause. If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 4: Inclusion in Code. The provisions of this Ordinance shall be included and incorporated in the Land Development Code of the City of Port Orange, as an addition or amendment thereto, and the sections of this Ordinance and of Chapter 21 of the Land Development Code may be renumbered to conform to the uniform numbering system of the Code and the amendments adopted by this Ordinance.

Section 5: Effective Date. This Ordinance shall take effect immediately upon adoption.

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Roblin L. Fenwick, MMC,
City Clerk

Passed on first reading on the ____ day of _____, 2023.

Passed and adopted on second and final reading on the ____ day of _____, 2023.

Reviewed and Approved: _____
Matthew J. Jones,
City Attorney

City of

Port Orange

2023 Municipal Impact Fee Study

June 19, 2023 – Final

February 8, 2023

Mr. Jonathan McKinney
Director of Finance
City of Port Orange
100 City Center Circle
Port Orange, FL 32129

Subject: 2023 Municipal Impact Fee Study

Dear Mr. McKinney,

Enclosed is the 2023 municipal impact fee report for your use and reference. The report herein includes an executive summary followed by technical sections regarding the calculation of each of the updated impact fees and additional background information. If you should have any questions, please do not hesitate to contact us. We appreciate the opportunity to work with you and the City on this important project.

Respectfully Submitted,

Raftelis Financial Consultants, Inc.

Henry Thomas
Vice President

Joe Williams
Senior Manager

Tristen Townsend
Associate Consultant

341 N. Maitland Ave, Suite 300
Maitland, FL 32751
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Executive Summary

Introduction

The City of Port Orange (City) has retained Raftelis Financial Consultants, Inc. (Raftelis) to review and update the City's fire, recreation, and transportation impact fees. Additionally, the City requested that Raftelis calculate Police impact fees for consideration since these are not currently assessed. The transportation impact fee analysis is provided through a separate report titled 'Transportation Impact Fee Study Update', as completed in conjunction with our subconsultant Kiefer Professional Services, Inc. Impact fees are important sources of revenue for municipalities to fund infrastructure investments related to serving growth. The impact fee calculations are based on the costs to provide infrastructure to address needs related to growth based on data specific to each service and related to the City's characteristics. The calculated impact fees set forth in this study reflect Florida case law, Florida Statutes, and generally acceptable impact fee methodologies, where applicable.

The City has not updated the fire and recreation impact fees since 2005. Therefore, it is important the City establish appropriate impact fees to maintain a high level of service for the various services offered. With new development helping fund the infrastructure related to the services provided, it will allow the City to expand and keep up with new growth.

The report herein outlines the methodologies, assumptions, and considerations in the development of each impact fee calculation. The following tables summarize the City's existing residential municipal impact fees compared to the fully calculated impact fees based on the analysis in this report:

Table ES 1: Existing and Calculated Single Family Residential Impact Fees

Description	Existing	Calculated Fee	Difference	% Difference
Police	N/A	526.00	526.00	N/A
Fire	270.00	405.00	135.00	50.0%
Parks and Recreation	1,525.00	1,956.00	431.00	28.3%
Total	$1,795.00	$2,361.00	$566.00	31.5%

As shown on the table above, the calculated impact fees for fire and parks & recreation services are greater than the existing fee levels. Pursuant to provisions of F.S. 163.31801 (6d) the City is limited to a maximum increase of 50% compared to existing fee levels. The fee for each land use is evaluated individually compared to the existing fee level to determine the percentage of increase and the phasing schedule required. F.S. 163.31801 indicates that increases less than 25% can be phased in over a two-year period and increases between 25% up to 50% can be phased in over a four-year period. More detailed analysis on the percentage increases for each land use can be found in each section of this report.

Table ES 2: Proposed Police Impact Fees

Land Use	Impact Unit	2023	2024	2025	2026
Single Family	Per Dwelling Unit	$526.00	$526.00	$526.00	$526.00
Multi-Family	Per Dwelling Unit	393.00	393.00	393.00	393.00
Industrial/Warehousing	Per 1,000 Sq. Ft	139.00	139.00	139.00	139.00
Hotel	Per Room	260.00	260.00	260.00	260.00
Recreational	Per 1,000 Sq. Ft	395.00	395.00	395.00	395.00
Institutional	Per 1,000 Sq. Ft	399.00	399.00	399.00	399.00
Office Building	Per 1,000 Sq. Ft	317.00	317.00	317.00	317.00
Retail	Per 1,000 Sq. Ft	727.00	727.00	727.00	727.00
ALF	Per Bed	241.00	241.00	241.00	241.00

Table ES 3: Proposed Fire Impact Fees

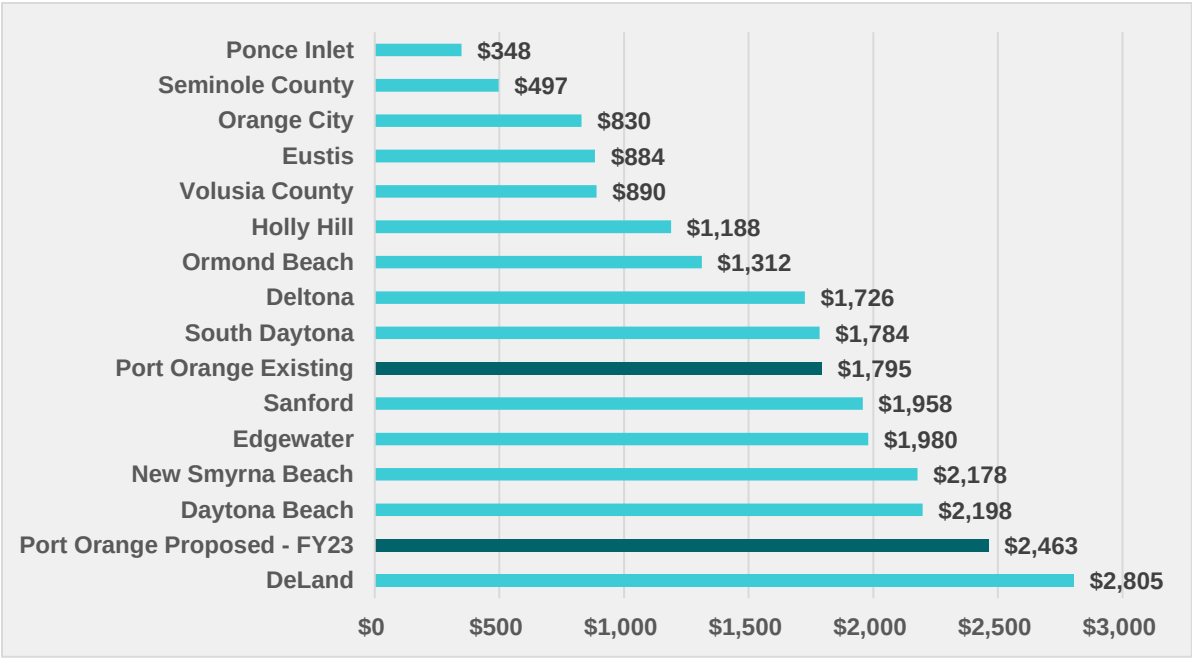
Land Use	Impact Unit	2023	2024	2025	2026
Single Family	Per Dwelling Unit	$303.75	$337.50	$371.25	$405.00
Multi-Family	Per Dwelling Unit	303.75	337.50	371.25	405.00
Industrial/Warehousing	Per 1,000 Sq. Ft	146.00	146.00	146.00	146.00
Hotel	Per Room	74.25	82.50	90.75	99.00
Recreational	Per 1,000 Sq. Ft	225.00	250.00	275.00	300.00
Institutional	Per 1,000 Sq. Ft	225.00	250.00	275.00	300.00
Office Building	Per 1,000 Sq. Ft	225.00	250.00	275.00	300.00
Retail	Per 1,000 Sq. Ft	225.00	250.00	275.00	300.00
ALF	Per Bed	194.00	214.00	234.00	254.00

Table ES 4: Proposed Parks & Recreation Impact Fees

Land Use	Impact Unit	2023	2024	2025	2026
Single Family	Per Dwelling Unit	$1,632.75	$1,740.50	$1,848.25	$1,956.00
Mobile Home	Per Dwelling Unit	1,420.87	1,578.74	1,736.61	1,894.48
Townhomes/Duplexes	Per Dwelling Unit	1,452.50	1,467.00	1,467.00	1,467.00
Multi-Family	Per Dwelling Unit	1,408.50	1,467.00	1,467.00	1,467.00

A comparison of the City's existing and fully calculated fees with other municipalities are shown below for informational purposes:

Figure 1: Single Family Municipal Impact Fee Comparison



The City currently charges non-residential development a flat fee per square foot for fire. This report discusses the proposal of seven land-use categories.

Observations and Recommendations

The following is a summary of the observations and recommendations developed by Raftelis during our investigation, analyses, and preparation of this report:

1. The imposition of impact fees must satisfy the rational nexus requirements as determined by case law. The impact fees must be reasonably related to the capital cost of providing capital facilities/equipment needed to accommodate needs attributable to new growth. The impact fees collected must be used by the City to address the capital costs related to serving new development. Based on the information made available by the City, the proposed impact fees are designed in accordance with the requirements set forth in Florida Statutes Section 163.31801.

2. The fees developed within this report reflect recovery of identified costs and the City has discretion to phase-in or otherwise adopt less than the fully calculated fees, subject to meeting all provisions of F.S. 163.31801. However, the adoption of fees less than the fully calculated rates should be applied to all land uses equally to maintain the calculations herein in correct proportion. Adopting less than the calculated rates would increase the reliance on general fund and other revenue sources to meet the demands of growth.

3. In compliance with Florida Statutes the City should continue to collect and maintain revenue collected from each type of municipal impact fee in designated sub-accounts and use such fees on those facilities designated for each purpose.

4. The City should re-evaluate its municipal impact fees from time to time, generally within a four to five-year period to stay consistent with state statutes, that change and are updated over time, and to maintain fees based on recent and local data as inflation and other factors can significantly impact the cost of providing the necessary capital facilities and vehicles in a short period of time.

5. The City should provide 90 days notice prior to the implementation of increased fees levels pursuant to the requirements outlined in F.S. 163.31801.

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Section 1 – Introduction

Introduction

The City of Port Orange (the "City") is located in Volusia County, on the east coast of Florida generally extending to the Halifax River, and has a total area of approximately 28.86 square miles. The City provides a full range of municipal services, including police and fire protection, as well as recreational facilities and activities. According to the University of Florida, Bureau of Economic & Business Research (BEBR), the City's population is estimated at 64,230 as of 2022. Discussions with City staff and review of permit information for 2022 suggest the City will experience a modest amount of growth from 2022 through 2032 (Forecast Period). For purposes of this report, it is estimated that the population will be 70,950 by 2032, representing an average growth rate of 1.0% compounded annually.

Impact Fee Background

Impact fees are one-time charges established as a means to recover in whole or in part, the costs associated with infrastructure and capital equipment needed to accommodate the demands anticipated to be generated by new development. Such capital costs generally include the construction of facilities together with necessary land costs. However, recent changes to Florida Statutes governing impact fees require a minimum of five (5) year service life and therefore the impact fee calculations herein include only assets that meet this minimum. Historically, impact fees in Florida were a result of home rule powers with the requirements associated with the development, administration, accounting and expenditure governed by case law. However, in 2006, Section 163.31801 was added to the Florida Statutes, which placed specific requirements and limitations on that home rule authority. This statute has been amended several times since its initial adoption, including significant additional provisions in 2021 such as limiting the percentage increase for a change in impact fees. Appendix A at the end of the report includes the full Florida impact fee statute.

Although the statute provides specific impact fee criteria, certain precedents established by case law also constitute the legal requirements associated with impact fees. Case law precedent for impact fees in Florida was originally set in the landmark Florida Supreme Court decision, Contractors and Builders Association of Pinellas County vs. City of Dunedin, Florida. In the ruling, the court identified certain conditions as necessarily present in order to have a valid impact fee. In general, the court decision addressed the following:

1. The impact fee should be reasonably equitable to all parties; that is, the amount of the fee must bear a relationship to the amount of services requested;

2. The system of fees and charges should be set up so that there is not an intentional windfall to existing users;

3. The impact fee should, to the extent practical, only cover the capital cost of construction and related costs thereto (engineering, legal, financing, administrative, etc.) for increases in or expansions of capacity or capital requirements that are required solely due to growth. Therefore, expenses due to normal renewal and replacement of a facility (e.g., replacement of a capital asset) should be borne by all users of the facility or municipality. Similarly, increased expenses due to operation and maintenance of that facility should be borne by all users of the facility; and

4. The local government must adopt a revenue-producing ordinance that explicitly sets forth restrictions on revenues (uses thereof) that the imposition of the impact fee generates. Therefore, the funds collected from the impact fees should be retained in a separate account, and separate accounting must be made for those funds to ensure that they are used only for the lawful purposes described.

Based on the criteria provided above, the impact fees herein will: 1) include local current costs of improvements associated with the capacities needed to serve new growth; 2) not reflect costs of improvements associated with the renewal and replacement (R&R) of existing capital assets or deficiencies in level of service attributed to existing development; and 3) not include any costs of operation and maintenance of the capital improvements and equipment.

This section provides only a general background regarding impact fees. Certain circumstances and issues regarding the interpretation of specific statutes or case law should be addressed by qualified legal counsel.

Summary of Report

In addition to Section 1, this report has been subdivided into five other sections. The following is a brief discussion of the remaining sections included in this report.

Section 2 – Service Area and Functional Population. This section of the report provides a general discussion of the residential and non-residential land use characteristics, and development of functional population estimates for both existing and future development.

Section 3 – Police Impact Fee. This section discusses the calculation of the proposed impact fee for the capital requirements associated with providing police services, the methodology for the proposed fees, assumptions utilized in the design of the fees, and other factors associated with the fee determination.

Section 4 – Fire/Rescue Impact Fee. This section discusses the calculation of the proposed impact fee for the capital requirements associated with providing fire/rescue services, the methodology for the proposed fees, assumptions utilized in the design of the fees, and other factors associated with the fee determination.

Section 5 – Parks and Recreation Impact Fee. This section discusses the development of the proposed impact fee for the capital requirements associated with providing parks and recreation facilities, the methodology for the proposed fees, assumptions and other factors associated with the fee determination. Parks and recreation impact fees apply only to residential development.

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Section 2 – Service Area and Functional Population

General

This section provides a general discussion of the current service area, population, and functional population factors.

Population and Development Forecast

As mentioned in Section 1, using 2022 BEBR population estimates, the 2022 population is estimated to be 64,230. The City is projected to have a 2032 population of 70,950, resulting in an annual growth rate of 1%.

Property data was obtained from the Volusia County Property Appraiser, which provides details on the number of parcels, units, and square feet by land-use within City limits. In total, the data indicated there are 26,310 residential dwelling units (including single family, multi-family, and mobile homes) developed in the City along with 6,908,566 square feet (SF) of non-residential building space. Based on the 26,310 residential dwelling units and the 2022 population estimate of 64,230, there are on average 2.44 persons per residential dwelling unit.

To determine a potential difference in functional population for single family units versus multi-family units, certain data from the US Census was obtained. Table B25024 (provides the number of units by type of dwelling – single family versus multi-family) and Table B25033 (provides the population by number of units by type of dwelling) were summarized to determine the estimated persons per household in the City. These tables are estimates and based on the American Community Survey (ACS) 5-year estimates for 2020. Based on the data from these two tables, as demonstrated on the table below, it was determined that, on average, multi-family units had a ratio of 0.75 compared with single family. The result, after applying the 0.75, or 75%, multi-family factor to the current 2022 data as outlined in the paragraph above and demonstrated in Table 2 on the following page, is a persons per household figure of 2.56 persons per single family unit and 1.92 persons per multi-family unit.

Table 1: Single Family and Multi-family Persons Per Household

Classification	Units in Structure	Dwelling Units [1]	Population [2]	Persons Per Household [3]	% of Single Family [4]
Single Family	1, detached or attached	19,833	48,443		
	Mobile Home	4,916	7,155		
	Subtotal	24,749	55,598	2.25	
Multi-Family	2 to 4	1,328	2,357		
	5 or more	3,455	5,686		
	Subtotal	4,783	8,043	1.68	75%
Total		29,532	63,641		

[1] From ACS Table B25024, estimates for 2020.
[2] From ACS Table B25033, estimates for 2020.
[3] Persons per household calculation for 2020 estimates. Primarily used to develop the ratio of multi-family to single family.
[4] Multi-family persons per household 1.68 divided by Single Family persons per household 2.25 and rounded.

Functional Population Parameters

A goal of the impact fee study is to assign the costs associated with each service provided to new development or re-development requiring an increased level of services on an equivalent unit basis. Two primary methods of allocating costs include 1) actual service calls based on historical records; and 2) population figures weighted and adjusted for time spent at various land uses based on traffic and other data. This study uses a method that allocates costs using population figures weighted and adjusted for time spent at various land uses based on traffic and other data and is commonly referred to as "functional population". The functional population analysis typically relies on trip data obtained through survey sources. Trip data is readily available from sources such as the Institute of Transportation Engineers (ITE) and is widely accepted for the purpose of identifying functional population by land use. This study uses the 11th Edition ITE trip generation manual. The trip data is applied to each land use along with other demographic data to establish a functional population by land use. Functional population measures the number of persons at a particular location measured over a 24-hour period. For example, for single family residential, a typical functional population would reflect a person at home 100 hours per week (e.g. 10-14 hours per day during weekdays and 20 -30 hours during the weekend). Based on 168 hours per week, this equates to 60% occupancy or 0.6 functional population per resident. Applying this factor to the average household size throughout the City of 2.44 persons equates to a 1.47 functional population per residential unit. As demonstrated on the table below, the residential category has been split between single family and multi-family dwellings. Table 2 summarizes the existing residential functional population based on these criteria:

Table 2: Residential Functional Population

Housing Type	2022 Population [1]	2022 Households [2]	Average Household Size [3]	Occupancy Factor [4]	Functional Population/ Unit	2022 Functional Population
		(a)	*(b)*	*(c)*	*(b) x (c) = (d)*	*(a) x (d)*
Single Family	54,864	21,432	2.56	60.0%	1.54	33,005
Multi-Family	9,366	4,878	1.92	60.0%	1.15	5,610
Total	64,230	26,310	2.44		1.47	38,615

[1] Population data estimated using the 2022 BEBR population estimates.
[2] Households obtained from property data from Volusia County Property Appraiser in July 2022.
[3] Persons per household calculation for 2022 estimates, using the 75% factor for multi-family developed on Table 1. Amounts different from Table 1 since Table 1 relies on estimated dwelling units from the US Census as compared to actual data obtained from the Volusia County Property Appraiser.
[4] Amount assumes 100 hours spent at home out of a 168-hour week.

For non-residential land uses, the functional population is determined through the process of applying the following attributes to each land use, typically measured per 1,000 square feet (i.e., per unit): 1) trips per unit and employees staffed per unit; 2) trip end adjustment; 3) hours worked by employees; 4) occupants per trip; 5) number of visitors, visitor hours, and visitor hours per week. Trip and employee data are primarily obtained from the ITE manual (11th Edition, 2021), and visitors and other data is obtained from sources including the 2017 National Household Travel Survey (U.S. Department of Transportation). Table 3 summarizes this process below:

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Table 3: Non-Residential Functional Population

Land Use	Bldg. SF	FP Factor [1]	2022 Functional Population
Industrial/Warehousing	1,502,375	0.43	649
Hotel [2]	101,574	0.81	249
Recreational	67,196	1.23	83
Institutional	843,699	1.24	1,046
Office Building	899,809	0.98	886
Retail	3,023,274	2.26	6,823
Assisted Living Facility [3]	470,639	0.75	405
Total	6,908,566		10,141

[1] Obtained from Exhibit 1 at the end of this report.
[2] Functional Population is calculated by converting the hotel square feet to an estimated number of rooms, using an average of 330 square feet per room[1].
[3] Functional Population is calculated by converting the assisted living square feet to an estimated number of beds, using an average of 870 square feet per bed[2].

Since impact fees are designed to recover the proportionate cost of new facilities attributed to growth, it is necessary to identify the existing and future development. Based on planned development data provided by City staff, there are approximately 1,231 residential dwelling units identified for construction in the coming years. Based on past development trends and a conservative outlook, it is expected that the City will experience growth of around 275 residential units per year. This results in a total 10-year growth of 2,753 units by 2032. Compared to the existing 26,310 residential units, the City is expected to grow to 29,063 residential units by 2032 representing a growth of approximately 1.0% annually. For forecasting purposes and appropriate allocation of certain major infrastructure improvements, it is assumed an additional 2,753 new residential units will be constructed between 2033 and 2042 (the 2nd 10-year period). The table below summarizes the expected residential growth in the City by year 2032, which will serve as the primary basis for cost allocations, future functional population, and impact fee levels.

Table 4: Residential Functional Population Growth

Housing Type	2022 Functional Population	Functional Population/Unit	2032 Households	2032 Functional Population
Single Family	33,005	1.54	23,674	36,458
Multi-Family	5,610	1.15	5,388	6,197
Total	38,615	1.47	29,063	42,655

As shown below, the 2022 non-residential functional population is 10,108 and is forecast to grow by 2,214 to 12,322 by 2032. The projected 2032 building square feet amount is based on applying the existing ratio of non-residential to residential square feet of 0.165 to the estimated residential square feet over the Forecast Period.

Table 5: Non-Residential Functional Population Growth

Year	Building Square Feet	Functional Population
2022	6,908,566	10,141
2032	8,421,503	12,322

[1] Based on the USA Today article dated November 4, 2015: https://www.usatoday.com/story/travel/roadwarriorvoices/2015/11/04/hotel-rooms-20-years-ago-were-twice-as-large-as-some-of-todays-offerings/83847338/
[2] Square footage per bed is based unit data for assisted living facilities located within Port Orange, sourced from Florida Health Finder (Agency for Health Care Administration).

The following summarizes the existing and projected functional population:

Table 6: Summary of Functional Population

Land Use	2022 Functional Population	2032 Functional Population	Percent in 2032
Residential	38,615	42,655	77.5%
Non-Residential	10,141	12,362	22.5%
Total	48,756	55,017	100.0%

The functional population assumptions used from ITE are representative of national averages. In order to localize the functional population estimates, the data is weighted using the 2019 Inflow/Outflow Report from the US Census that is specific to the City. The Census Inflow/Outflow Analysis report shows how many residents work inside and outside of the city daily, as well as how many non-residents work inside the city. While the data lags slightly in updates, it is representative of the traffic patterns and is a reliable source for the purposes of this cost apportionment.

According to the Inflow/Outflow Report, there are 25,362 residents from the City in the work force. Of those, 3,550 work within the City and the other 21,812 work outside of the City. Using the 2019 population of 61,617, it can be assumed that 36,255 residents are not working. It is assumed that a resident not working would spend 20 hours at home and that residents working would spend 14 hours at home. This would give a total of 1,080,168 residential hours (hours spent at home).

Table 7: Functional Population Weighting Residential Hours

Description	Population	Hours Spent at Home	Residential Hours
	(a)	*(b)*	*(c) = (a) x (b)*
2019 Population [1]	61,617		
Residential			
Residents Not Working [2]	36,255	20.0	725,100
Residential Work Force			
Works Inside City [3]	3,550	14.0	49,700
Works Outside City [3]	21,812	14.0	305,368
Total Residential Hours			1,080,168
Residential Share of Person Hours			78.5%
Non-Residential			
Residents Not Working [2]	36,255	4.0	145,020
Jobs Located in City			
Residents Working in City [3]	3,550	10.0	35,500
Non-resident Workers (inflow commuters) [3]	11,450	10.0	114,500
Total Non-Resident Hours			295,020
Non-Residential Share of Person Hours			21.5%
Total Daily Hours Within the City			1,375,188

[1] Population estimate based on BEBR.
[2] Amount derived from subtracting the Residential Work Force from the 2019 Population
[3] Amount comes from US Census 2019 Inflow/Outflow Count of All Jobs Report

As shown on the table above, Residential Hours account for 78.5% (1,080,168 / 1,375,188) of total daily hours spent within the City and Non-residential accounts for 21.5% (295,020 / 1,375,188). These percentages are used to allocate the capital costs for police and fire impact fee calculations.

Below is a list of the non-residential land uses:

- Industrial/Manufacturing – Generally includes Light Industrial, Heavy Industrial, Manufacturing, Mini-warehousing, and Industrial Parks.

- Hotel – A place of lodging that provides sleeping accommodation. Includes suites hotel, motel, resort hotels, etc.

- Recreational – Generally includes cultural organization facilities, camps, clubs, lodges, union halls, tourist attractions, and exhibits.

- Institutional – Generally includes schools, daycares, religious facilities, medical clinics, medical office buildings, and hospitals.

- Office Building – This land use consists of various types of office building.

- Retail – Generally includes all types of retail establishments such as shopping centers, stand-alone stores, grocery stores, department stores, auto repair shops, restaurants, and several others.

- Assisted Living Facility – Generally consists of assisted living facilities including: senior adult housing, congregate care facilities, retirement homes, nursing homes, and similar land uses.

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Section 3 – Police Impact Fee

Introduction

The City maintains a Police Department to provide law enforcement services and ensure the safety and well-being of the community and residents of the City of Port Orange. The Police Department currently staffs 96 sworn officers and 21.5 civilian support positions to serve the City's existing population of 64,230. The Police Department operates out of a single station near the city center. In order to maintain appropriate staffing ratios, office space needs, and to provide the vehicles necessary to new officers, the Police Department will require infrastructure and capital investments.

Existing Impact Fees

The City does not currently charge Police Impact Fees for new development within the City limits.

Implementation of police impact fees will allow the City to charge development for their portion of impacts created on the police department, in terms of additional investments in facilities and additional vehicles for an expanded police force. This report uses the same methodology for both residential and non-residential development with the addition of various non-residential land uses presented in Section 2.

Existing Resources and Level of Service

The City currently staffs 96 sworn officers along with necessary support personnel. The staffing is as follows:

Table 8: Current Police Staffing

Position	Staffing
Chief	2.00
Patrol	70.00
Traffic	7.00
CID	13.00
Support Svc	4.00
F/T Civilian	21.00
P/T Civilian	0.50
Total	117.50

The City's Police Department currently consists of 117.50 full time equivalent positions. With 94 full time police personnel, after excluding the police chief and civilian staff, the current level of staffing achieves a Level of Service (LOS) of 1.46 officers per 1,000 population within the City's limits based on the 2022 population of 64,230. Additionally, since the impact fee methodology is based on functional population, the calculated LOS is 1.93 officers per 1,000 functional population based on the existing 48,756 functional population from on Table 6. While the police staffing uses a much more complex methodology based on demand, types of calls, large events and gatherings, growth expectations, area densities, types of developments, etc., the LOS is used for impact fee purposes to identify equitable allocations of the capital assets between existing and future development. The calculated impact fee will be designed to maintain the 1.93 officers per 1,000 functional population ratio. Therefore, an additional 12.07 officers would be added over the next ten years. The table below illustrates the total need for police officers and the LOS achieved.

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Table 9: Existing and Projected Sworn Officers

Description	Existing	Projected Through 2032	
		Additional	Total
Officers	94.00	12.07	106.07
Functional Population	48,756	6,261	55,017
LOS Achieved (Personnel per 1,000 FP)	1.93	1.93	1.93

Incremental Costs

Costs related to growth in the police force typically include a combination of equipping new officers with vehicles and providing the necessary facilities such as office space in police stations. Since eligible impact fees costs are limited to capital items, certain costs are excluded from the impact fee analysis including other initial investments required such as field equipment and protective gear, outside of what is necessary to fully equip a police car, as well as ongoing operating and maintenance costs (salaries and benefits, etc.). Items included in the impact fee calculation have a minimum of a five-year life and are not replaced frequently.

The City must provide vehicles for existing and new officers. The City's fixed asset listing as of September 30, 2022, indicates there are 100 vehicles in service for the 96 sworn officers, including the police chiefs. It is common practice for police departments to have spare vehicles since those vehicles are so necessary to perform the protection services they provide. After excluding the police chiefs and their respective vehicles, the vehicles per officer ratio is 1.06, which includes those spare vehicles. This ratio will be used to determine the number of future vehicles needed as additional officers are added to maintain the spare vehicle ratio. The value of the new fully equipped vehicle of $65,000 is used. This value is based on using the current average cost of $60,000 and assuming officers are hired in a balanced pattern over the 10-year forecast, with a 2.3% – 2.4% per year escalation factor[3]. The replacement cost of the existing vehicles is $642,200, based on reviewing the Replacement Cost New Less Depreciation (RCNLD) value as derived from the fixed asset data. The RCNLD value is based on applying an inflationary value to the original purchase price of the building assets based on when they were purchased and then factoring in the percentage that each asset has been depreciated based on the unique service life of each asset. For those assets that have been fully depreciated, the RCNLD value is $0. The cost of providing vehicles to new officers is identified on the following table.

Table 10: Cost of Vehicles for New Officers

Description	Amount
New Sworn Officers	12.07
Vehicles per Officer	1.06
Total Vehicles Needed	12.84
Cost per Vehicle	$65,000
Total Vehicle Costs for New Officers	$834,700

As shown above, the total cost of additional vehicles over the next ten years is estimated at $834,700.

Table 11: Total Vehicle Costs

Description	Amount
Existing Vehicles	$642,200
Additional Vehicles	834,700
Total Vehicle Costs	$1,476,900

[3] Escalation factors from Congressional Budget Office (CBO) report titled "The Budget and Economic Outlook: 2022 to 2032", published in May 2022.

In addition to vehicles, the Police Department is responsible for providing adequate building space to house and train the officers and support staff.

The Police Department has plans to upgrade the Police Range. These upgrades would include a shoot house, classrooms, a SWAT obstacle course, and emergency vehicle operations driving track. The total cost of the future police range, after accounting for cost escalation, is estimated at $3,215,800. This range will be available to serve growth beyond the forecasted period of ten years, so a portion of the total cost of the new station is allocated to be funded by future growth beyond 2032. The portion of the new station included in the total police capital costs is $2,894,220, or 90%. This allocation was determined based on the existing population of 64,230, growth of 6,720 persons through 2032, and then an additional growth of 6,720 persons through 2042 resulting in a total population of 77,670 in 2042. The projected population in 2032 (64,230 persons plus 6,720 persons, or 70,950 total) represents 91% of the total expected population in 2042, which was rounded to 90% for the purpose of this report.

Below is a summary of the costs used to calculate the police impact fee.

Table 12: Total Police Capital Costs

Description	Amount
Existing Vehicles	$642,200
Future Vehicles	834,700
Existing Facilities	13,436,300
Police Range Upgrades	2,894,220
Other Capital Costs	768,800
Total Capital Costs	$18,576,220

Impact Fee Development

In order to develop the impact fees, it is necessary to calculate the cost per functional unit. First, the total capital costs are allocated between residential and non-residential using the functional population weighted estimates in Section 2 (Table 7).

Table 13: Allocated Police Capital Costs

Description	Total Capital Costs	% Residential	% Non-residential	Residential Capital Costs	Non-residential Capital Costs
Capital Costs	$18,576,220	78.55%	21.45%	$14,591,051	$3,985,169

The allocated capital costs are divided by the functional population as identified in Section 2 to get a fee functional population. Then, the residential amounts are translated back into a fee per dwelling unit.

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Table 14: Residential Police Fee Calculation

Description	Residential	Non-residential [1]
Capital Costs	$14,591,100	$3,985,200
2032 Functional Population	42,655	12,362
Fee per Functional Population [1]	$342.07	$322.38
Single Family FP per Unit	1.54	
Calculated Single Family Impact Fee per Unit	$526.79	
Single Family Impact Fee per Unit	$526.00	
Multi-Family FP per Unit	1.15	
Calculated Multi-Family Impact Fee per Unit	$393.38	
Multi-Family Impact Fee per Unit	$393.00	

[1] Non-residential fee per functional population is the basis for the non-residential fee as shown on Table 15.

In addition to the residential impact fees, a select number of non-residential land uses were identified in Section 2 with functional population factors. By applying these factors to the calculated police impact fee, the rate per unit of development for each land use is developed and provided on the table below.

Table 15: Non-Residential Police Impact Fees

Land Use	Impact Unit	FP Factor [1]	Impact Fee
Industrial/Warehousing	1,000 Sq Ft	0.43	$139.00
Hotel	Rooms	0.81	260.00
Recreational	1,000 Sq Ft	1.23	395.00
Institutional	1,000 Sq Ft	1.24	399.00
Office Building	1,000 Sq Ft	0.98	317.00
Retail	1,000 Sq Ft	2.26	727.00
Assisted Living Facility	Beds	0.75	241.00

[1] Obtained from Exhibit 1.

To meet the City's needs in terms of providing the necessary police related capital improvements, including expanding/upgrading existing facilities as required by growth, the City should consider adopting the fees to the maximum calculated amount as demonstrated on the tables above. Under the proposed/calculated impact fees growth would pay around $2,093,000, as derived from Exhibit 2. If the City does not implement the maximum fees, then the City will not generate additional funds to offset the asset investments required to continue providing services to new development.

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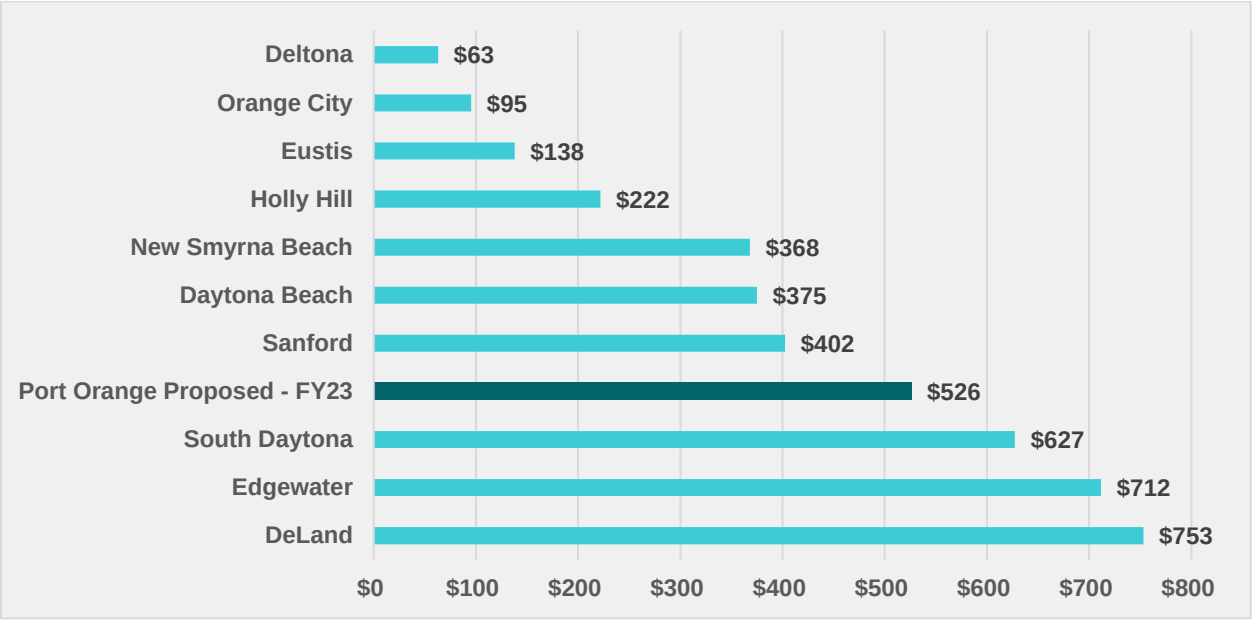
Police Impact Fee Comparisons

The following figure compares the City's existing and calculated police impact fees for residential land uses with those imposed in other nearby communities.

Figure 2: Police Impact Fee Comparison per Single Family Residential Unit



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Section 4 – Fire Impact Fee

Introduction

The City's fire department is responsible for responding to all fire and medical emergencies within the City and its surrounding areas. Currently, the fire department is comprised of 65 total employees.

The City's fire department is guided by standards published by the National Fire Protection Association (NFPA) in assessing its level of service needs. The fire department's primary intent is to maintain staffing levels to be able to respond to service calls within a specified time period to all developed areas within the City limits.

As the residential and commercial development within the City increases, the potential demand for fire safety services may also increase causing a need for additional fire personnel, equipment, and vehicles. This section provides an analysis for the City's consideration regarding the design of a fire impact fee based on the costs to meet demands from growth.

Existing Impact Fees

The City currently charges fire impact fees for new development within the City limits based on the classification of development of either residential or non-residential. The following table illustrates the fees charged:

Table 16: Existing Fire Impact Fees

Description	Impact Unit	Fire Impact Fee
Residential	Dwelling Unit	$270.00
Non-Residential	Square Foot	$0.20

These fees and the associated methodology were last put in place in 2005. Though growth is not projected to increased significantly, new development will still create impacts on the overall staffing and operations of the Fire Department. This report uses the same methodology for both residential and non-residential development with the addition of various non-residential land uses presented in Section 2.

Existing Resources and Level of Service

The City's current operations for fire protection are based out of five fire stations. The current response time for emergency and non-emergency responses in the City is 6 minutes and 23 seconds. The Fire Department has an Insurance Services Offices (ISO) rating of 3 on a scale of 1 to 10, with 1 representing the highest level of fire protection. The Fire Department also has their own internal standards they strive to maintain as follows: first engine arrive on scene time of 240 seconds (4 minutes), initial full alarm (low and medium hazard) time of 480 seconds (8 minutes), and initial full alarm (high hazard/high-rise) time of 610 seconds (10 minutes and 10 seconds).

Incremental Costs

Costs related to the growth in the fire department typically include a combination of providing the necessary capital equipment including fire trucks, as fully equipped and ready to be put into service, and facilities. Since eligible impact fees costs are limited to capital items, certain costs are excluded from the impact fee analysis. The excluded costs are items such as uniforms, radios, and helmets. Items included in the impact fee calculation have a minimum of a five-year life. Since the City has plans to upgrade existing fire trucks and ambulances, the existing value of these assets are not included in the impact fee calculation in order to reflect the more current costs of providing these assets.

As discussed previously, the fire department utilizes five fire stations: Station 71, 72, 73, 74, and 75. The City has plans to rebuild Fire Station 73 with a new, upgraded, and expanded facility for a total inflated value of $9,876,300. This new station has capacity to serve growth beyond the forecasted period of ten years, so a portion of the new

station included in the total fire capital costs is $8,888,670, or 90%. This allocation was determined based on the existing population of 64,230, growth of 6,720 persons through 2032, and then an additional growth of 6,720 persons through 2042 resulting in a total population of 77,670. The projected population in 2032 (64,230 persons plus 6,720 persons, or 70,950 total) represents 91.3% of the total expected population in 2042, which was rounded to 90% for the purpose of this report.

The fire department has plans to upgrade one fire truck and two ambulances during the current fiscal year, as well as additional ongoing vehicle upgrades of pumpers, ambulances, and other trucks within the forecast period of ten years. Since these costs represent the most current and localized data for providing the necessary vehicles for the fire department, the costs of the future upgraded vehicles are included in the impact fee calculation, and the costs for the existing vehicles that will be replaced have been excluded. The total costs for the additional vehicles are shown on the table below:

Table 17: Current Fire Vehicles

Description
Fire Trucks
2003 Pierce Training Spare At 75
2004 Pierce Enforcer Backup #3
2010 Pierce Contender Backup #2
2012 Pierce Sabre Backup #1
2013 Pierce Sabre Pumper E-74
2014 Pierce Impel Ladder Quint Q-72
2015 Pierce Impel Rescue Pumper Sqe-75
2018 Pierce Impel Rescue Pumper E-71
2018 Pierce Impel 107' Ladder L-73
Brush Trucks
2008 Ford F550 4X4 Brush Br-72
2018 Ford F350 Brush Truck Br-74
Brush Truck BA-75
Ambulances
2016 Ram 4500 Ambulance M-73
2005 International 4300 Ambulance B-1

Table 18: Future Fire Vehicles

Description	Amount
Additional ALS Transport Units	$829,100
Ambulance & Engine / Pumper	1,142,800
Vehicle Upgrade Program	2,530,300
Total	$4,502,200

The table below summarizes all of the costs included in the impact fee calculation.

Table 19: Total Fire Capital Costs

Description	Amount
Existing Apparatus	$1,189,800
Future Fire Vehicles	4,502,200
Existing Facilities and Land	5,214,300
FS 73 Upgrade & Station Alerting System	8,938,670
Total Capital Costs	$19,844,970

Impact Fee Development

In order to develop the impact fees, it is necessary to calculate the cost per functional unit. First, the total capital costs are allocated between residential and non-residential using the functional population weighted estimates in Section 2 (Table 7).

Table 20: Allocated Fire Capital Costs

Description	Total Capital Costs	% Residential	% Non-residential	Residential Capital Costs	Non-residential Capital Costs
Capital Costs	$19,582,870	78.55%	21.45%	$15,381,700	$4,201,100

The allocated capital costs are divided by the functional population to get a fee per functional population. Then, these amounts are translated back into a cost per dwelling unit for residential purposes using the functional population factors per dwelling unit as identified in Section 2.

Table 21: Residential Fee Calculation

Description	Residential	Non-residential [1]
Capital Costs	$15,381,700	$4,201,100
2032 Functional Population	42,655	12,362
Fee per Functional Population [1]	$360.61	$339.84
Single Family FP per Unit	1.54	
Calculated Single Family Impact Fee per Unit	$555.34	
Single Family Impact Fee per Unit	$555.00	
Multi-Family FP per Unit	1.15	
Calculated Multi-Family Impact Fee per Unit	$414.70	
Multi-Family Impact Fee per Unit	$414.00	

[1] Non-residential Fee per Functional Population is the basis for the Non-residential fee as shown on Table 23.

Table 22: Residential Fire Impact Fee Increase

Land Use	Existing Fee	Calculated Fee	Difference	% Difference
Single Family	$270.00	$555.00	$285.00	105.6%
Multi-family	270.00	414.00	144.00	53.3%

As shown above, the calculated fees are significantly higher than the existing fees for fire. Based on the current provisions in F.S. 163.31801 regarding a maximum of a 50% fee increase and phasing provisions, we recommend the City implement a slightly rounded impact fee of $405.00 for single family and multi-family residential units. This amount represents a $135.00 increase or 50% over the existing $270.00 fee per unit.

In addition to the residential impact fee, a select number of non-residential land uses were identified in Section 2 with functional population factors. By applying these factors to the calculated fire impact fee, the rate per unit of development for each land use is developed and provided on the table below.

Table 23: Calculated Non-Residential Fire Impact Fees

Land Use	Impact Unit	FP Factor	Existing Fee	Calculated Fee	Difference	% Difference
Industrial/Warehousing	1,000 Sq Ft	0.43	$200.00	$146.00	($54.00)	-27.0%
Hotel	Rooms	0.81	66.00	274.00	208.00	315.2%
Recreational	1,000 Sq Ft	1.23	200.00	417.00	217.00	108.5%
Institutional	1,000 Sq Ft	1.24	200.00	421.00	221.00	110.5%
Office Building	1,000 Sq Ft	0.98	200.00	334.00	134.00	67.0%
Retail	1,000 Sq Ft	2.26	200.00	766.00	566.00	283.0%
Assisted Living Facility	Beds	0.75	174.00	254.00	80.00	46.0%

As shown above, almost all of the calculated fees are significantly higher than the existing fees for fire, other than the industrial/warehousing land use. However, based on the current provisions in F.S. 163.31801 regarding a maximum of a 50% fee increase and phasing provisions, we recommend the City implement slightly rounded impact fees as shown in Table 24 below. These fees represent the maximum fee for each land use, as limited to a 50% increase per F.S. 163.31801.

Table 24: Fire Impact Fee Increase

Land Use	Impact Unit	Existing Fee	2023	2024	2025	2026
Single Family	Dwelling Unit	$270.00	$303.75	$337.50	$371.25	$405.00
Multi-Family	Dwelling Unit	270.00	303.75	337.50	371.25	405.00
Industrial/Warehousing	1,000 Sq Ft	200.00	146.00	146.00	146.00	146.00
Hotel	Rooms	66.00	74.25	82.50	90.75	99.00
Recreational	1,000 Sq Ft	200.00	225.00	250.00	275.00	300.00
Institutional	1,000 Sq Ft	200.00	225.00	250.00	275.00	300.00
Office Building	1,000 Sq Ft	200.00	225.00	250.00	275.00	300.00
Retail	1,000 Sq Ft	200.00	225.00	250.00	275.00	300.00
ALF	Beds	174.00	194.00	214.00	234.00	254.00

To meet the City's needs in terms of providing the necessary fire related capital improvements, including replacement/expansion of an existing fire station as required by growth, the City should increase the fees to the maximum allowable calculated amount as demonstrated on Table 24 above. Under the existing fire impact fees new development would pay around $1,045,000 and under the proposed/calculated impact fees growth would pay around $1,443,000, as derived from Exhibit 2. If the City does not implement the maximum fees, then growth will be underpaying their share of the capital improvements by approximately $398,000, resulting in a funding shortfall to provide necessary improvements related to new growth.

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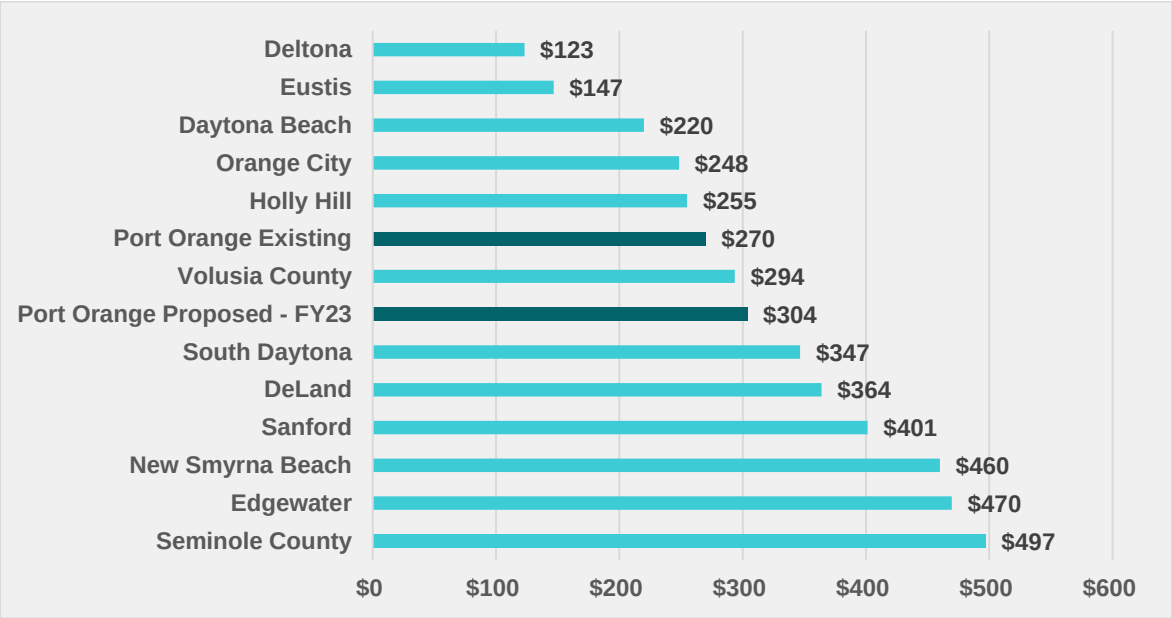
Fire Impact Fee Comparisons

The following figure compares the City's existing and calculated fire impact fees for residential land uses with those imposed in other nearby communities.

Figure 3: Fire Impact Fee Comparison per Single Family Residential Unit



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Section 5 – Parks and Recreation Impact Fee

Introduction

The City owns and maintains parks and recreation facilities for the use and benefit of its residents and visitors. As the City grows, additional facilities along with improvements to existing recreation amenities are necessary. This section provides an analysis for the City's updated parks and recreation impact fee based on the costs to meet demands from growth. This section relies on growth in residential population/development only.

Existing Impact Fees

The City currently charges a parks and recreation impact fee to be used for the expansion of parks and recreation related services that may be necessitated by growth. This fee is charged to all residential land uses. The following table provides the existing parks and recreation impact fees charged to new residential development:

Table 25: Existing Parks and Recreation Impact Fees

Description	Fee
Single Family	$1,525.00
Mobile Home	$1,263.00
Townhomes/Duplex	$1,438.00
Multi-Family	$1,350.00

Existing Recreational Facilities

City staff provided a parks inventory that indicates that the City currently has 26 existing parks and recreation facilities encompassing approximately 472.10 total acres as summarized on Table 26. These parks are eligible for funding from impact fees due to demands from growth resulting in the need for expansion. The amenities provided throughout this network include playgrounds, boat ramps, tennis courts, softball fields, basketball courts, soccer fields, walking trails, an amphitheater, a community center, and a library. Each of the parks and facilities will also be available for use by future residents.

Table 26: Existing Parks and Facilities

Description	Total Acres	% Public Access	Public Acres
Adult Activity Center	5.10	0.0%	0.00
Airport Road Park	25.00	85.0%	21.25
Allen Green Center	8.00	0.0%	0.00
Buschman Park	25.00	85.0%	21.25
City Center Municipal Complex	11.00	85.0%	9.35
City Center Sports Complex	45.00	85.0%	38.25
Coraci Park	36.00	85.0%	30.60
Creekside Middle School	9.00	50.0%	4.50
Fredrick Street Park	5.00	85.0%	4.25
Golf Course at Cypress Head	129.95	85.0%	110.46
Ken Burn Park	5.00	85.0%	4.25
Kenneth W. Parker Amphitheater	1.10	85.0%	0.94
Lakeside Community Center	2.00	0.0%	0.00

Description	Total Acres	% Public Access	Public Acres
Memorial Park	12.60	85.0%	10.71
Port Orange Causeway Park	30.00	100.0%	30.00
Port Orange Gymnasium	2.65	85.0%	2.25
Port Orange Skate Park	0.63	85.0%	0.54
Port Orange Y.M.C.A	7.65	0.0%	0.00
Riverwalk Park	9.73	85.0%	8.27
Riverside Pavilion Park	2.45	0.0%	0.00
Russell Property	17.00	85.0%	14.45
Silver Sands Middle School	20.35	50.0%	10.18
Southwinds Soccer Complex	10.00	60.0%	6.00
Spruce Creek Recreational Facility	40.00	85.0%	34.00
Willow Run Park	10.00	85.0%	8.50
Dawnview Park	1.89	85.0%	1.61
Total	472.10		371.59

Level of service (LOS) for parks and recreational services is typically measured in terms of recreational acreage available per 1,000 population. This figure indicates whether the City has a sufficient amount of recreational acreage to serve its current residents. With a current population of 64,230, the LOS provided to existing residents is 7.35 acres of park and recreational lands per 1,000 residents, based on the 472.10 acres. The projected increase in City population from 64,230 to 70,950 by 2032 will reduce the LOS to 6.65 acres per 1,000 population, before the addition of additional park land.

Using RCNLD for facilities and current property values in the City for land, the City has invested $41.89 million into the existing parks and recreation facilities. The City's investment in these facilities is largely anticipated to serve the increased population over the next 10-years and is included as a capital recoupment cost for impact fee determination.

Growth-Related Capital Improvements

The City has provided a Capital Improvement Plan (CIP) that identifies a range of projects including expansion, upgrade, and replacement of park land and facilities. This CIP has been reviewed with staff and updated based on the most current information available. All projects associated with replacement or refurbishment of existing facilities have been excluded from the impact fee calculations to maintain a conservative approach. All of the parks CIP projects are designed to serve growth beyond the forecasted period of ten years as the City begins to near buildout, so a portion of each of these projects are included in the park's capital costs for a total of $12,339,900, or 90%. This allocation was determined based on the existing population of 64,230, growth of 6,720 persons through 2032, and then an additional growth of 6,720 persons through 2042 resulting in a total population of 77,670. The projected population in 2032 (64,230 persons plus 6,720 persons, or 70,950 total) represents 91.3% of the total population expected in 2042, which was rounded to 90% for the purpose of this report. The table below shows the CIP projects eligible for impact fee calculations and the portion included in the total capital costs.

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Table 27: Parks and Recreation Capital Projects

Description	Total Project Cost	% Allocated to Existing and 10-Yr Growth	Adjusted Amount
Coraci North	$3,089,500	90%	$2,780,550
Restroom/ Concession Facility	400,800	90%	360,720
Westside Community Center	6,277,400	90%	5,649,660
Land Acquisition on Spruce Creek [1]	2,200,500	90%	1,980,450
Floating Docks on South Side of Causeway Park	497,800	90%	448,020
Parks Office Building	1,089,000	90%	980,100
Willow Run Soccer Complex	60,000	90%	54,000
Day Dock Riverwalk	96,000	90%	86,400
Total	$13,711,000		$12,339,900

[1] It was assumed the City would acquire 15 acres at a cost of $146,700 per acre. The cost per acre was determined based on recent vacant property sales in Port Orange from Zillow.

Calculated Parks and Recreation Impact Fees

As mentioned previously, approximately $41.89 million has been invested into the existing park facilities and an additional $12.34 million is planned to be invested over the next several years. Since both existing and future investments in the parks department benefit both existing and future residents, the total amount invested is divided by the 2032 projected population of 70,950. The table below provides the parks and recreation impact fee calculation:

Table 28: Parks and Recreation Impact Fee Calculation

Description	Amount
Existing Investment	$41,892,132
Planned Investment	12,339,900
Total Cost Basis to Recover	$54,232,032
2032 Population	70,950
Fee per Person	$764.37
Single Family Persons per Unit	2.56
Calculated Single Family Impact Fee per Unit	$1,956.72
Single Family Impact Fee per Unit	$1,956.00
Multi-Family Persons per Unit	1.92
Calculated Multi-Family Impact Fee per Unit	$1,467.63
Multi-Family Impact Fee per Unit	$1,467.00

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Table 29: Calculated Parks and Recreation Impact Fee

Land Use	Existing Fee	Calculated Fee	Difference	% Difference
Single Family	$1,525.00	$1,956.00	$431.00	28.3%
Mobile Home	1,263.00	1,956.00	693.00	54.9%
Townhomes/Duplexes	1,438.00	1,467.00	29.00	2.0%
Multi-Family	1,350.00	1,467.00	117.00	8.7%

As shown above, each of the calculated fees are higher than the existing fees for parks & recreation. Based on the current provisions in F.S. 163.31801 regarding fee increases and phasing provisions, we recommend the City implement slightly rounded impact fees as shown in Table 30 below. These fees represent a phase-in schedule for each land use, considering F.S. 163.31801 limitations.

Table 30: Parks and Recreation Impact Fee Increase

Land Use	Impact Unit	Existing Fee	2023	2024	2025	2026
Single Family	Dwelling Unit	$1,525.00	$1,632.75	$1,740.50	$1,848.25	$1,956.00
Mobile Home	Dwelling Unit	1,263.00	1,420.87	1,578.74	1,736.61	1,894.48
Townhomes/Duplexes	Dwelling Unit	1,438.00	1,452.50	1,467.00	1,467.00	1,467.00
Multi-family	Dwelling Unit	1,350.00	1,408.50	1,467.00	1,467.00	1,467.00

We recommend the City implement a slightly rounded impact fee of $1,956.00 per single family residential unit, $1,894.48.00 per mobile home, and $1,467 per townhome/duplex and multi-family residential units based on the analysis discussed above, and phased-in as required by Florida Statutes and shown in Table 30. The existing parks and recreation impact fee per single family residential dwelling unit is $1,525.00. The proposed impact fee of $1,956.00 represents a $431.00 increase from the existing fee level or 28.3%. The existing parks and recreation impact fee per mobile home residential dwelling unit is $1,263.00. The calculated impact fee of $1,956.00, as the mobile home category is proposed to eventually be consolidated into the single family class, results in an increase greater than 50%. Applying the maximum allowable increase of $631.48, which is 50% higher than the existing fee of $1,263.00 per unit, results in a fee of $1,894.48 in four-years. The existing parks and recreation impact fee per townhome/duplex is $1,438.00. The proposed impact fee of $1,467.00 represents a $29.00 increase from the existing fee level or 2.0%. The existing parks and recreation impact fee per multi-family residential dwelling unit is $1,350.00. The proposed impact fee of $1,467.00 represents a $117.00 increase from the existing fee level or 8.7%.

To meet the City's needs in terms of providing the necessary recreation related capital improvements, including purchasing additional land for parks and expanding/upgrading existing facilities as required by growth, the City should increase the fees to the maximum calculated amount as demonstrated on the tables above. As discussed in the Executive Summary, there are several factors causing an extraordinary circumstance for the City including recent large inflationary cost increases plus additional capital improvements based on a significant increase in population growth. Under the existing parks and recreation impact fees new development would pay around $4,153,000 and under the proposed/calculated impact fees growth would pay around $4,987,000, as derived from Exhibit 2. If the City does not implement the maximum fees, then growth will be underpaying their share of the capital improvements by approximately $834,000, resulting in a funding shortfall to provide necessary improvements related to new growth.

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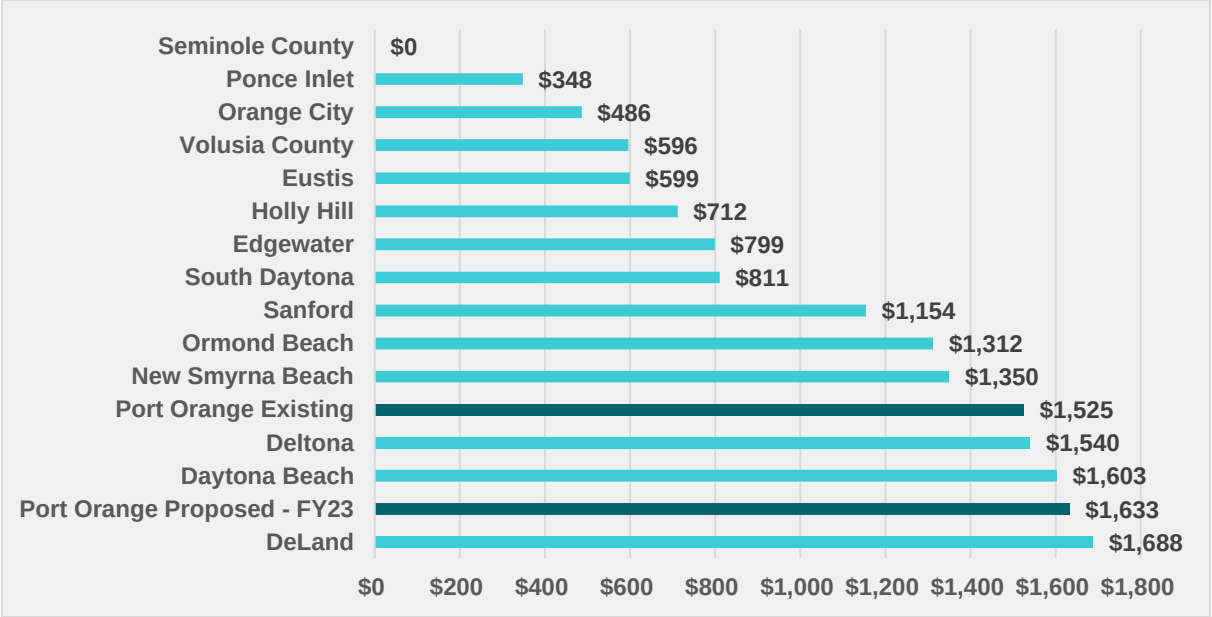
Parks and Recreation Impact Fee Comparisons

The figure below provides the comparison to other local municipalities.

Figure 4: Parks and Recreational Impact Fee Comparison per Single Family Residential Unit



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City of Port Orange
2023 Municipal Impact Fee Study
Exhibit 1: Non-Residential Functional Population

ITE	ITE CODE	Number of Parcels	Units	Bldg Sq Ft	Impact Unit	Trips per Unit per Day	One Way Factor (50%)	Occupants per Trip per Day: Employees	Occupants per Trip per Day: Visitors	People per Unit per Day: Employees	People per Unit per Day: Visitors	Visitor hours per Trip	Business hours	Days per Week	Weekly Hours per Unit: Per Employee	Weekly Hours per Unit: Per Visitor	Weekly Hours per Unit: Total Hours	Functional Pop. Coefficient	2022 Functional Population [1]	2032 Square Feet	2032 Functional Population
				[a]		[b]	[c]	[d]	[e]	[f]	[g]	[h]	[i]	[j]	[k]	[l]	[m]	[n]	[o]		
Industrial/Warehousing	110	225	N/A	1,502,375	1,000 Sq Ft	4.87	2.44	1.00	1.75	1.57	1.51	0.25	9.00	5.00	70.69	1.89	72.58	0.43	649.00		
Hotel [1]	310	6	N/A	101,574	Rooms	7.99	4.00	1.00	1.75	0.56	6.02	1.00	24.00	7.00	93.61	42.11	135.72	0.81	249.00		
Recreational	495	23	N/A	67,196	1,000 Sq Ft	28.82	14.41	1.00	2.14	1.06	28.57	1.00	12.00	5.00	63.46	142.87	206.33	1.23	83.00		
Institutional	528	67	N/A	843,699	1,000 Sq Ft	14.37	7.19	1.00	1.77	2.83	7.71	1.00	12.00	5.00	169.72	38.55	208.28	1.24	1,046.00		
Office Building	710	598	N/A	899,809	1,000 Sq Ft	10.84	5.42	1.00	1.75	3.26	3.79	1.00	9.00	5.00	146.49	18.94	165.43	0.98	886.00		
Retail	820	387	N/A	3,023,274	1,000 Sq Ft	37.01	18.51	1.00	1.75	2.12	28.67	1.00	12.00	7.00	178.46	200.66	379.12	2.26	6,823.00		
Assisted Living Facility [2] [3]	253	8	541	470,639	Beds													0.75	405.00		
Total		1,314		6,908,566															10,141.00	8,421,503	12,362
		0		0																	

Footnotes:

[a] Summarized from property data obtained from the Volusia County Property Appraiser in July 2022
[b] From 11th Edition ITE Manual
[c] This factor is used to divide the trip rate in half which provides the basis for estimating visitors per day per impact unit
[d] Assumed one employee per trip
[e] From 2017 National Household Travel Survey, vehicle occupancy by trip purpose
[f] From 11th Edition ITE Manual per employee
[g] = ([c] -([f]/[d]))*[e]
[h] Time assumption per visitor
[i] Time assumption per employee
[j] Time assumption
[k] = [f] * [i] * [j]
[l] = [g] * [h] * [j]
[m] = [k] + [l]
[n] = [m] / (24*7)
[o] = [n] * [a] / 1000

[1] Hotel functional population is based off the national average hotel room size of 330 square feet, based on the USA Today article dated November 4, 2015. Formula is [o] = [n] * [a] / 330

[2] Square footage per bed is based unit data on assisted living facilities located within Port Orange, sourced from Florida Health Finder (Agency for Health Care Administration)

[3] The functional population was determined by multiplying the functional population coefficient by the existing number of beds.
The Assisted Living Facility functional population coefficient is calculated as follows:

Res per Unit	1.00
Occupancy Rate	75.0%
Adjusted Res/Unit	0.75
Hours at Place	20.00
Workers/Unit	0.33
Work/hrs/day	9.00
Days/week	7.00
FP Factor	0.75

City of Port Orange
2023 Municipal Impact Fee Study
Exhibit 2: Revenue Forecast

Growth in Residential Units	2022 Households	2032 Households	Growth in Households	Annual Growth in Households
Single Family	21,432	23,674	2,242	224
Duplex/Triplex & Multi-Family	4,878	5,388	510	51
	26,310	29,063	2,753	275

Growth in Non-Residential Units/Sq. Ft.	2022 Units	Distribution	2032 Units	Growth	Unit	Growth in Units	Ann. Unit Growth
Industrial/Warehousing	1,502,375	21.7%	1,831,387	329,012	1,000 Sq Ft	329	33
Hotel	101,574	1.5%	123,818	22,244	Rooms	59	6
Recreational	67,196	1.0%	81,912	14,716	1,000 Sq Ft	15	1
Institutional	843,699	12.2%	1,028,464	184,765	1,000 Sq Ft	185	18
Office Building	899,809	13.0%	1,096,862	197,053	1,000 Sq Ft	197	20
Retail	3,023,274	43.8%	3,685,354	662,080	1,000 Sq Ft	662	66
Assisted Living Facility	470,639	6.8%	573,706	103,067	Beds	118	12
Total	6,908,566	100.0%	8,421,503	1,512,937			

Fire Impact Fees

Description	Units	Unit Growth	Existing Rate	Rev Forecast	Units	Unit Growth	Ann. Unit Growth	2023	2024	2025	2026-2032	Rev Forecast
Single Family	D.U.	2,242	$270.00	$605,411	D.U.	2,242	224	$303.75	$337.50	$371.25	$405.00	$862,710
Duplex/Triplex & Multi-Family	D.U.	510	$270.00	137,794	D.U.	510	51	$303.75	$337.50	$371.25	$405.00	196,356
				$743,204								$1,059,066
Industrial/Warehousing	1,000 Sq Ft	329	$200.00	$65,802	1,000 Sq Ft	329	33	$146.00	$146.00	$146.00	$146.00	$48,036
Hotel	Rooms	59	$66.00	3,894	Rooms	59	6	$74.25	$82.50	$90.75	$99.00	5,549
Recreational	1,000 Sq Ft	15	$200.00	2,943	1,000 Sq Ft	15	1	$225.00	$250.00	$275.00	$300.00	4,194
Institutional	1,000 Sq Ft	185	$200.00	36,953	1,000 Sq Ft	185	18	$225.00	$250.00	$275.00	$300.00	52,658
Office Building	1,000 Sq Ft	197	$200.00	39,411	1,000 Sq Ft	197	20	$225.00	$250.00	$275.00	$300.00	56,160
Retail	1,000 Sq Ft	662	$200.00	132,416	1,000 Sq Ft	662	66	$225.00	$250.00	$275.00	$300.00	188,693
Assisted Living Facility	Beds	118	$174.00	20,532	Beds	118	12	$194.00	$214.00	$234.00	$254.00	28,556
				$301,951								$383,846
Total Fire Impact Fee Revenue				$1,045,155								$1,442,912

Police Impact Fees

Description	Units	Unit Growth	Existing Rate	Rev Forecast	Units	Unit Growth	Ann. Unit Growth	2023	2024	2025	2026-2032	Rev Forecast
Single Family	D.U.	2,242	$0.00	$0	D.U.	2,242	224	$526.00	$526.00	$526.00	$526.00	$1,179,429
Duplex/Triplex & Multi-Family	D.U.	510	$0.00	0	D.U.	510	51	$393.00	$393.00	$393.00	$393.00	200,566
				$0								$1,379,996
Industrial/Warehousing	1,000 Sq Ft	329	$0.00	$0	1,000 Sq Ft	329	33	$139.00	$139.00	$139.00	$139.00	$45,733
Hotel	Rooms	59	$0.00	0	Rooms	59	6	$260.00	$260.00	$260.00	$260.00	15,340
Recreational	1,000 Sq Ft	15	$0.00	0	1,000 Sq Ft	15	1	$395.00	$395.00	$395.00	$395.00	5,813
Institutional	1,000 Sq Ft	185	$0.00	0	1,000 Sq Ft	185	18	$399.00	$399.00	$399.00	$399.00	73,721
Office Building	1,000 Sq Ft	197	$0.00	0	1,000 Sq Ft	197	20	$317.00	$317.00	$317.00	$317.00	62,466
Retail	1,000 Sq Ft	662	$0.00	0	1,000 Sq Ft	662	66	$727.00	$727.00	$727.00	$727.00	481,332
Assisted Living Facility	Beds	118	$0.00	0	Beds	118	12	$241.00	$241.00	$241.00	$241.00	28,438
				$0								$712,843
Total Police Impact Fee Revenue				$0								$2,092,838

Parks Impact Fees

Description	Units	Unit Growth	Existing Rate	Rev Forecast	Units	Unit Growth	Ann. Unit Growth	2023	2024	2025	2026-2032	Rev Forecast
Single Family	D.U.	2,242	$1,525.00	$3,419,449	D.U.	2,242	224	$1,632.75	$1,740.50	$1,848.25	$1,956.00	$4,240,901
Multi-Family	D.U.	510	$1,438.00	733,879	D.U.	510	51	$1,408.50	$1,467.00	$1,467.00	$1,467.00	745,693
Total Parks & Recreation Impact Fee Revenue				$4,153,327								$4,986,594

Select Year: 2022 Go

The 2022 Florida Statutes (including 2022 Special Session A and 2023 Special Session B)

Title XI COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	Chapter 163 INTERGOVERNMENTAL PROGRAMS	View Entire Chapter

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

(1) This section may be cited as the "Florida Impact Fee Act."

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.

(3) For purposes of this section, the term:

(a) "Infrastructure" means a fixed capital expenditure or fixed capital outlay, excluding the cost of repairs or maintenance, associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of at least 5 years; related land acquisition, land improvement, design, engineering, and permitting costs; and other related construction costs required to bring the public facility into service. The term also includes a fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, a school bus as defined in s. 1006.25, and the equipment necessary to outfit the vehicle or bus for its official use. For independent special fire control districts, the term includes new facilities as defined in s. 191.009(4).

(b) "Public facilities" has the same meaning as in s. 163.3164 and includes emergency medical, fire, and law enforcement facilities.

(4) At a minimum, each local government that adopts and collects an impact fee by ordinance and each special district that adopts, collects, and administers an impact fee by resolution must:

(a) Ensure that the calculation of the impact fee is based on the most recent and localized data.

(b) Provide for accounting and reporting of impact fee collections and expenditures and account for the revenues and expenditures of such impact fee in a separate accounting fund.

(c) Limit administrative charges for the collection of impact fees to actual costs.

(d) Provide notice at least 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A local government is not required to wait 90 days to decrease, suspend, or eliminate an impact fee. Unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective date of a new or increased impact fee.

(e) Ensure that collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.

(f) Ensure that the impact fee is proportional and reasonably connected to, or has a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.

(g) Ensure that the impact fee is proportional and reasonably connected to, or has a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.

(h) Specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving capital facilities to benefit new users.

(i) Ensure that revenues generated by the impact fee are not used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or nonresidential construction.

(5)(a) Notwithstanding any charter provision, comprehensive plan policy, ordinance, development order, development permit, or resolution, the local government or special district must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of exaction, related to public facilities or infrastructure, including land dedication, site planning and design, or construction. Any contribution must be applied on a dollar-for-dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made.

(b) If a local government or special district does not charge and collect an impact fee for the general category or class of public facilities or infrastructure contributed, a credit may not be applied under paragraph (a).

(6) A local government, school district, or special district may increase an impact fee only as provided in this subsection.

(a) An impact fee may be increased only pursuant to a plan for the imposition, collection, and use of the increased impact fees which complies with this section.

(b) An increase to a current impact fee rate of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.

(c) An increase to a current impact fee rate which exceeds 25 percent but is not more than 50 percent of the current rate must be implemented in four equal installments beginning with the date the increased fee is adopted.

(d) An impact fee increase may not exceed 50 percent of the current impact fee rate.

(e) An impact fee may not be increased more than once every 4 years.

(f) An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

(g) A local government, school district, or special district may increase an impact fee rate beyond the phase-in limitations established under paragraph (b), paragraph (c), paragraph (d), or paragraph (e) by establishing the need for such increase in full compliance with the requirements of subsection (4), provided the following criteria are met:

1. A demonstrated-need study justifying any increase in excess of those authorized in paragraph (b), paragraph (c), paragraph (d), or paragraph (e) has been completed within the 12 months before the adoption of the impact fee increase and expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations.

2. The local government jurisdiction has held not less than two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in paragraph (b), paragraph (c), paragraph (d), or paragraph (e).

3. The impact fee increase ordinance is approved by at least a two-thirds vote of the governing body.

(h) This subsection operates retroactively to January 1, 2021.

(7) If an impact fee is increased, the holder of any impact fee credits, whether such credits are granted under s. 163.3180, s. 380.06, or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established.

(8) A local government, school district, or special district must submit with its annual financial report required under s. 218.32 or its financial audit report required under s. 218.39 a separate affidavit signed by its chief financial officer or, if there is no chief financial officer, its executive officer attesting, to the best of his or her knowledge, that all impact fees were collected and expended by the local government, school district, or special district, or were collected and expended on its behalf, in full compliance with the spending period provision in the

local ordinance or resolution, and that funds expended from each impact fee account were used only to acquire, construct, or improve specific infrastructure needs.

(9) In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees as provided in s. 163.3180(6)(h)2.b., the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.

(10) Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other that is within the same impact fee zone or impact fee district or that is within an adjoining impact fee zone or impact fee district within the same local government jurisdiction and which receives benefits from the improvement or contribution that generated the credits. This subsection applies to all impact fee credits regardless of whether the credits were established before or after June 4, 2021.

(11) A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

(12) This section does not apply to water and sewer connection fees.

(13) In addition to the items that must be reported in the annual financial reports under s. 218.32, a local government, school district, or special district must report all of the following information on all impact fees charged:

(a) The specific purpose of the impact fee, including the specific infrastructure needs to be met, including, but not limited to, transportation, parks, water, sewer, and schools.

(b) The impact fee schedule policy describing the method of calculating impact fees, such as flat fees, tiered scales based on number of bedrooms, or tiered scales based on square footage.

(c) The amount assessed for each purpose and for each type of dwelling.

(d) The total amount of impact fees charged by type of dwelling.

(e) Each exception and waiver provided for construction or development of housing that is affordable.

History.—s. 9, ch. 2006-218; s. 1, ch. 2009-49; s. 5, ch. 2009-96; s. 5, ch. 2011-14; s. 1, ch. 2011-149; s. 1, ch. 2019-106; s. 5, ch. 2019-165; s. 5, ch. 2020-27; s. 1, ch. 2020-58; ss. 1, 2, ch. 2021-63.

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CITY OF

Port Orange

Transportation Impact Fee Study Update

June 2023
Revised

RAFTELIS

KIEFER PROFESSIONAL SERVICES, LLC

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Introduction

The City of Port Orange is located in Volusia County, north of New Smyrna Beach and south of South Daytona and Daytona Beach. The City comprises 26.79 square miles and provides an array of services to year-round and seasonal residents. Based on the published U.S. Census in 2020, the City's permanent population was 62,596. It is anticipated that the City will have modest growth over the next 20 years with the City's population projected to reach 66,051 by the year 2040. The City anticipates both residential and commercial development to continue to support existing and new residents. In order to meet this anticipated growth and development and to maintain current levels of service, the City will need to fund capital improvements to serve such development.

The City of Port Orange completed a transportation impact fee study in 2005, and adopted the transportation impact fee schedule in October, 2005. This study calculates new road impact fees based on current data and costs. It describes the existing impact fee rate, the basis for the fee, the rate methodology, the impact fee project list, and the recommended fee rate. The city recognizes the need to update the impact fee study to ensure the fees are based on most current and localized data.

The City of Port Orange has retained Raftelis Financial Consultants, Inc. with Kiefer Professional Services, LLC as a subconsultant, to prepare an update study to reflect changes to the cost, credit, and demand components since the last update study. The calculated fees represent the technically defensible level of impact fee that the city can charge; however, the City Council may choose to discount the fees as a policy decision.

Methodology Overview

In developing the impact fee program, a consumption-based impact fee methodology is utilized, which is commonly used throughout Florida. A consumption-based impact fee charges new development based upon the burden placed on services from each land use (demand). For transportation, vehicle-miles of travel is used as the demand component.

A consumption-based impact fee charges new growth the proportionate share of the cost of providing additional infrastructure available for use by new growth. Unlike a "needs-based" approach, the consumption-based approach ensures that the impact fee is set at a rate that does not generate sufficient revenues to correct existing deficiencies. As such, the City does not need to go through the process of estimating the portion of each capacity expansion project that may be related to existing deficiencies.

In addition, per legal requirements, a credit is subtracted from the total cost to account for the value of future tax contributions of new development toward any capacity expansion projects to ensure that the new development is not charged twice for the same service.

Transportation Impact Fee Overview

Transportation impact fees are collected to fund improvements that add capacity to the transportation system, accommodating the travel demand created by new development. A transportation impact fee is a fee assessed on new development for its impact on the city's transportation infrastructure. The fee is used to fund capital improvement projects for transportation infrastructure. New development brings additional traffic to local roads and impact fees can be imposed to fund a share of the needed improvements to the city's transportation infrastructure required by growth. The fee amounts are calculated to address a proportionate share of the cost of improvements to the City's transportation infrastructure necessary to serve new growth and development.

Impact fees allow local governments to finance construction improvements with a schedule in the government's comprehensive plan that ensures the improvements are in place to serve the service demands of new development. Thus, impact fees can support growth in some areas by assuring the construction of needed services. By planning for growth in advance, the City of Port Orange can avoid overburdening capital facilities to the point of slowing or halting development.

The City of Port Orange defines capital improvements as preliminary engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for transportation projects including, but not limited to:

1. Construction of new through lanes;
2. Construction of new turn lanes;
3. Construction of new bridges;
4. Construction of new drainage facilities in conjunction with new roadway construction;
5. Purchase and installation of traffic signalization (including new and upgrading signalization);
6. Construction of curbs, medians, shoulders and sidewalks;
7. Relocating utilities to accommodate new roadway construction;
8. Transit facilities, including fixed guideway circulation systems.

Legal Overview

In Florida, legal requirements related to impact fees have primarily been established through case law since the 1980's. The "dual rational nexus" test is the most commonly cited legal justification for impact fees. Impact fees must comply with this test, which requires that they be supported by a study demonstrating that the fees are proportionate in amount to the need created by new development paying the fee; and be spent in a manner that directs a proportionate benefit to new development. This is typically accomplished through establishment of benefit districts (if needed) and a list of capacity adding projects included in the Capital Improvement Plan (CIP), Capital Improvement Element (CIE), or another planning document. Based on the City of Port Orange's historical practice and the size of the community, this study does not designate, or recommend establishment of, impact fee benefit districts.

Florida Impact Fee Act. The "Florida Impact Fee Act," was passed by the Florida Legislature in 2006, which recognized impact fees as "an outgrowth of home rule power of a local government to provide certain services within its jurisdiction."

§163.31801(2), Florida Statute. The statute, concerned with mostly procedural and methodological limitations, did not expressly allow or disallow any particular public facility type from being funded with impact fees. The Act did specify procedural and methodological prerequisites, such as the requirement of the fee being based on most recent and localized data, a 90-day requirement for fee changes, and other similar requirements, most of which were common to the practice already.

More recent legislation further affected the impact fee framework in Florida, including the following:

- **HB 227 in 2009:** The Florida legislation statutorily clarified that in any action challenging an impact fee, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee meets the requirements of state legal precedent or the Impact Fee Act and that the court may not use a deferential standard.

- **SB 360 in 2009:** Allowed fees to be decreased without the 90-day notice period required to increase the fees and purported to change the standard of legal review associated with impact fees. SB 360 also required the Florida Department of Community Affairs (now the Department of Economic Opportunity) and Florida Department of Transportation (FDOT) to conduct studies on "mobility fees," which were completed in 2010.

- **HB 7207 in 2011:** Required a dollar-for-dollar credit, for purposes of concurrency compliance, for impact fees paid and other concurrency mitigation required.

- **HB 319 in 2013:** Applied mostly to concurrency management authorities, but also encouraged local governments to adopt alternative mobility systems using a series of tools identified in section 163.31801 (5)(f), Florida Statutes.

- **HB 207 in 2019:** Included the following changes to the Impact Fee Act along with additional clarifying language:

  - Impact fees cannot be collected prior to building permit issuance; and
  - Impact fee revenues cannot be used to pay debt service for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential and commercial construction.

- **HB 7103 in 2019:** Addressed multiple issues related to affordable housing/linkage fees, impact fees, and building services fees. In terms of impact fees, the bill required that when local governments increase their impact fees, the outstanding impact fee credits for developer contributions should also be increased.

This requirement will operate prospectively. HB 337, however, signed in 2021, deleted this clause and making all outstanding credits available for this adjustment. This bill also allowed local governments to waive/reduce impact fees for affordable housing projects without having to offset the associated revenue loss.

- **SB 1066 in 2020:** Added language allowing impact fee credits to be assignable and transferable at any time after establishment from one development or parcel to another that is within the same impact fee zone or impact fee district or that is within an adjoining impact fee zone or district within the same local government jurisdiction. In addition, added language indicating any new/increased impact fee not being applicable to current or pending permit applications submitted prior to the effective date of an ordinance or resolution imposing new/increased fees.

- **HB 1339 in 2020:** Requires reporting of various impact fee related data items within the annual financial audit report submitted to the Department of Financial Services.

- **HB 337 in 2021:** Placed limits on the amount and frequency of fee increases, but also included a clause to exceed these restrictions if the local governments can demonstrate extraordinary circumstances, hold two public workshops discussing these circumstances and the increases are approved by two-thirds of the governing body. This act is retroactive to January 1, 2021

The following paragraphs provide further detail on the generally applicable legal standards for this study.

Impact Fee Definition

- An impact fee is a one-time capital charge levied against new development.
- An impact fee is designed to cover the portion of the capital costs of infrastructure capacity consumed by new development.
- The principal purpose of an impact fee is to assist in funding the implementation of projects identified in the Capital Improvements Element (CIE) and other capital improvement programs for the respective facility/service categories.

Impact Fee vs. Tax

- An impact fee is generally regarded as a regulatory function established based upon the specific benefit to the user related to a given infrastructure type and is not established for the primary purpose of generating revenue for the general benefit of the community, as are taxes.
- Impact fee expenditures must convey a proportional benefit to the fee payer. This is accomplished through the establishment of benefit districts as needed, where fees collected in a benefit district are spent in the same benefit district. As previously stated, this study does not designate or recommend benefit districts for the City.
- An impact fee must be tied to a proportional need for new infrastructure capacity created by new development.

This report has been prepared to support legal compliance with existing case law and statutory requirements and documents the methodology used for impact fee calculations for each fee in the following sections, including an evaluation of the inventory, service area, level of service (LOS), cost, credit, and demand components.

Rational Nexus

To ensure a rational nexus, transportation impact fees must be spent only on growth related capital improvement projects directly benefiting developments from which fees were collected. The two core principles of the dual rational nexus test are Need and Benefit.

Need Test: In order to meet the rational demands upheld by courts, local governments must demonstrate that the new development creates a need for additional transportation facilities. Florida Statutes Chapter 163.3177 consists of required and optional elements for comprehensive plans. It establishes the requirement for a plan to incorporate a Capital Improvement Element which is designed to "consider the need for and the location of public facilities"[1]. Comprehensive planning legislation has made it mandatory that all communities must plan for growth, and communities like Port Orange that are trying to manage growth must realize the need for growth to help pay for itself.

Growth creates a strain on the existing transportation network due to the increase in locally produced traffic. Impact fees are often adopted by communities experiencing rapid growth to manage this strain on the local road network. Growth can create the need for capacity expanding road improvements. Impact fees are designed in such a way that new developments pay a proportional share of those capacity needs. Also due to this growth, all features of the transportation network will be under strain including sidewalks and current traffic control devices which will soon be inadequate.

Benefit Test: In order to be legally sufficient in providing a benefit, an impact fee must have four characteristics required by Florida case law:

(1) An impact fee must be imposed only on new development or new expansion of an existing development; and
(2) An impact fee must be a one-time only charge; and
(3) Revenues from impact fees must be allocated for capital expenses only, operating costs are excluded; and
(4) The fee must represent a proportional share of the cost of the new facility needed to serve the new development.

[1] 163.3177(3)(a), Florida Statutes

Land Use Changes and Additions

As part of this update study, the following land uses were revised/added (listed alphabetically) to the City of Port Orange transportation impact fee schedule to reflect the most recent data on demand variables:

- **Airport Hanger** – this land use was removed from the impact fee schedule due to lack of data. There is no listed ITE LUC for this use.
- **Auto Care/Detailing** – land use removed as it conflicts with related land uses and is supported by only one study from the ITE 10th Edition.
- **Brewery Tap Room** – land use added to account for possible developments of this type. This is a new land use, incorporated by the ITE 11th Edition. A brewery tap room is a designated area found in conjunction with a brewery in which customers can try samples of a brewery's products. These rooms are typically located on-site and can be used as a way to sell beer or related products directly to the customer.
- **Car Wash** – land use removed and updated with separate ITE 11th Edition land use codes for Self-Service Car Wash and Automated Car Wash.
- **CBD Sandwich Shop:** The CBD Sandwich Shop is a more specific land use than anything in the list, and thus was combined with restaurant.
- **Clinic** – land use added to reflect the provision of this service in communities. A clinic is any facility that provides limited diagnostic and outpatient care but is unable to provide prolonged in-house medical and surgical care. Clinics commonly have lab facilities, supporting pharmacies, and a wide range of services (compared to the medical office, which may only have specialized or individual physicians).
- **Coffee/Donut Shop** – land use added with ITE 11th Edition tiering, similar to fast food restaurant land use.
- **Convenience Store w/Gas and Fast Food** – land use was removed as it overlaps with another land use and not consistent with ITE 11th Edition.
- **Convenience Store/Gas Station** – land use tiered based on ITE 11th Edition realignment, charged per 1,000 sq. ft.:
    - Convenience Store/Gas Station 2,000 – 4,000 GFA
    - Convenience Store/Gas Station 4,500 – 5,000 GFA
    - Convenience Store/Gas Station 5,500 – 10,000 GFA
- **Fast Food Restaurant –** land use updated to ITE 11th Edition for fast food restaurants with and without a drive-thru, and no indoor seating.
- **Gas Station/Service Station** – land use was added to the schedule to reflect the service without additives.
- **General Office** – land use square footage tiering was removed. ITE 11th Edition indicates an office building (LUC 710) houses multiple tenants that can include, as examples, professional services, insurance companies, investment brokers, a banking institution, a restaurant, or other service retailers. A general office building with a gross floor area of 10,000 square feet or less is classified as a small office building (LUC 712).
- **General Recreation** – this land use was removed from the impact fee schedule due to lack of data. There is no listed ITE Land Use Code (LUC) for this use.
- **Health/Fitness Club** – land use added to reflect current lifestyle trend.

- **Liquor Store** – land use added to account for this specific type of sales. A liquor store specializes in the sale of prepackaged alcoholic beverages intended to be consumed off the store's premises.
- **Local Park:** The park land use was removed from the impact fee list, as municipal projects do not generally pay impact fees and trips are calculated by acre and not building square footages.
- **Major Sport Facility** – this land use was removed from the impact fee schedule due to lack of data. There is no listed ITE LUC for this particular use. There is a LUC 462 for Professional Baseball Stadium but it is only for baseball and the number of ITE studies is limited to only two.
- **Marijuana Dispensary** – land use added to reflect new legislation regarding this substance. A marijuana dispensary is a stand-alone facility where cannabis is sold to patients or retail consumers in a legal manner.
- **Medical-Dental Office Building** – land use added to the schedule (charged per 1,000 sq ft).
- **Multi-Family Low-Rise, Mid-Rise, High-Rise** – Based on ITE 11th Edition, the apartment and condo/townhouse land uses were combined into a single "multi-family" category that is tiered based on the number of floors (charged per dwelling unit). These two tiers replace the current "multi-family" land use. The Residential Condominium/Townhouse and Apartment land use was subsequently removed from the schedule and replaced with the updated land use descriptions.
- **New and Used Car Sales** – land use removed and replaced with distinctive land uses codes for New Car Sales and Used Car Sales.
- **Nursery (Garden Center)** – land use added as a residential and commercial support land use. A nursery or garden center is a free-standing building with an outside storage area for planting or landscape stock. The nurseries surveyed primarily serve the general public. Some have large greenhouses and offer landscaping services.
- **Pharmacy/Drugstore without Drive-Through Window** – land use added as per ITE 11th Edition, related to similar land use with drive-through window.
- **Residential with Ground Floor Commercial –** this land use was added to reflect current trends of mixed-use development. The category is tiered based on the number of floors.
- **Retail/Shopping Center** – previous land use square footage tiering was removed. ITE 11th Edition split retail into three separate land uses based on square footage. The current tiering was replaced with this ITE version of tiering for shopping center (>150K SF), shopping plaza (40-150K SF), strip retail plaza (<40K SF)
- **Single-family Residential:** The ITE 11th Edition has added a "single-family attached" land use, which removes duplex / townhome uses (shared walls, but not shared floor/ceilings) from the multi-family land use. The single-family residential land use thus covers both attached and detached single-family homes.
- **Small Office** – land use was added to reflect a general office building less than 10,000 square feet.
- **Tire Store/Auto Repair** – land use updated with ITE 11th Edition description, Tire Superstore. A tire superstore is a warehouse-like facility with the primary function of selling and installing tires for automobiles and small trucks. Other services provided may include automotive maintenance functions such as wheel alignment or shock and brake service and customer services. A tire display, customer waiting lounge, restroom facilities, staff office space, and significant storage area are also provided

Land Use Assumptions

Before calculating transportation impact fees, it was first necessary to evaluate the road network of Port Orange and gather information about the existing and proposed future land uses. Population and employment data were also reviewed. This section contains a summary of the land use assumptions and other demographic information about Port Orange.

Roadway Network

The City has been successful at creating a well-connected, relatively compact urban form and walkable transportation system. The older east side of the city features a tightly gridded network of streets which disperses traffic enough to be safely walkable without sidewalks. The areas developed after 1970 are more loosely gridded, but are built with sidewalks on both sides of each street to accommodate walking. The City's arterial and collector roads feature extra-wide sidewalks that are used by pedestrians and cyclists alike. Timely investments in roadway capacity have ensured that the state, county, and local roadways running through the City are mostly free of congestion. The major corridors are also served by transit, including a "super stop" transfer point for five different routes. Overall, the City has been progressive with its planning and access management, especially along Dunlawton Avenue.

The City utilizes a Transportation Concurrency Exception Area (TCEA) within its central core redevelopment area, known as Port Orange Town Center. State-mandated transportation concurrency requirements are utilized outside of the TCEA as an important tool to maintain transportation mobility. The TCEA in the Port Orange Town Center allows the City to focus on other mobility strategies instead of road-widening, with the goal of reducing urban sprawl.

The City has adopted the Dunlawton Corridor Plan, which is a detailed plan covering approximately 640 acres along Dunlawton Avenue. The plan details all aspects of development from infrastructure coordination to architectural and urban design controls. Since the Plan's creation in 1989, the majority of the property along the Dunlawton corridor has been built out. The City intends to update the Plan to account for the development activity since that time and to include additional lands west of Williamson Boulevard planned for future development. The City also intends to create new Corridor Plans for its other major arterial corridors.

In the western half of the city, much of the land has been developed at low densities, with relatively few roadway connections. Although the infrastructure exists to support additional development and redevelopment, connecting this development to the residential areas will be difficult because of the manner in which the road network and lots have been laid out. Physical constraints in the west side of the City include the reliance upon a small number of major roads to handle most of the traffic; a curvilinear street pattern with few interconnections; low densities to support transit and other modes; and I-95, which itself constricts movement between the east and west portions of the city.

Based on the long-term projections, the City may need to consider designating additional roadway segments as constrained facilities, since they likely will not be widened beyond what is currently planned or programmed.

The following tables and maps show the overall layout and conditions of Port Orange roadways.

Table 1 shows the major roadway network, including street names, the associated segment, FDOT functional classification, and the estimated length in miles. The miles were estimated by measuring distance in a GIS map. The remainder of roadways located in the City of Port Orange boundary are classified as local roads.

Figure 1, Figure 2, and Figure 3 depict the roadway network as it relates to jurisdictional maintenance, roadway functional classification, and prior and projected roadway level of service for the year 2025. The maps are from the City's 2009 Comprehensive Plan (currently being updated) and illustrate the development of new roadway links and future LOS concerns.

Table 2 and Figure 4: FDOT Monitoring Stations, show daily traffic volumes and Volume-to-Capacity (V/C) ratios for State roadways located in the City. Based on this information, segments of South Williamson Boulevard and Taylor Road have a V/C ratio greater than 1.0 (or 100%), which indicates it is failing. This is consistent with the project LOS on the City's maps from the Comprehensive Plan.

(Remainder of page intentionally left blank)

Table 1: Existing Major Roadway Network

Street Name	From	To	Classification	Length (Miles) [1]
Isabelle Ave.	Ridgewood Ave.	Nova Rd.	Collector	1.15
Spruce Creek Rd.	Canal View Blvd.	Dunlawton Ave.	Collector	0.10
Spruce Creek Rd.	Dunlawton Ave.	Commonwealth Blvd.	Minor Arterial	1.05
Spruce Creek Rd.	Commonwealth Blvd	Nova Rd	Minor Arterial	0.49
Spruce Creek Rd	Nova Rd.	Taylor Rd.	Minor Arterial	0.70
Spruce Creek Rd.	Taylor Rd.	Central Park Blvd.	Collector	1.01
Spruce Creek Rd.	Central Park Blvd.	South city limit	Collector	1.07
Madeline Ave	McDonald Rd.	Nova Rd.	Minor Arterial	0.61
Madeline Ave	Nova Rd.	Clyde Morris Blvd.	Minor Arterial	1.25
Herbert St.	Halifax Dr.	5th St.	Collector	0.76
Herbert St.	5th St.	S. Nova Rd.	Collector	0.82
Herbert St.	S. Nova Rd..	Clyde Morris Blvd.	Collector	1.12
Willow Run Blvd.	Clyde Morris Blvd.	West city limit	Collector	1.21
Hensel Rd.	Taylor Rd.	South terminus	Collector	1.33
Country Ln.	Village Tr.	Taylor Rd.	Collector	1.06
Central Park Blvd.	Spruce Creek Rd.	Hensel Rd.	Collector	1.04
Central Park Blvd.	Spruce Creek Rd.	Nash Lane	Collector	0.34
Oak St.	Dunlawton Ave.	Ridgewood Ave.	Collector	0.095
Oak St.	Dunlawton Ave.	Jackson St..	Collector	0.033
Canal View Blvd.	Nova Rd.	Spruce Creek Rd.	Collector	0.75
Charles St.	McDonald Rd.	Ridgewood Ave.	Collector	0.75
Jackson St.	Spruce Creek Rd.	Madeline Ave.	Collector	1.89
Victoria Gardens Blvd.	Clyde Morris Blvd.	Dunlawton Ave.	Collector	0.51
Village Tr.	Dunlawton Ave.	Nova Rd.	Collector	0.66
Yorktowne Blvd.	Dunlawton Ave.	Hidden Lake Dr.	Collector	0.85
Yorktowne Blvd.	Dunlawton Ave.	Taylor Rd.	Collector	0.49
City Center	Dunlawton Ave.	Herbert St./Clyde Morris Blvd.	Collector	Note (1)
City Center Drive	City Center Circle	Herbert St.	Collector	0.30
City Center Circle	N/A	N/A	Collector	0.48
City Center Blvd.	City Center Circle	S. Clyde Morris Blvd.	Collector	0.20
City Center Pkwy	City Center Circle	Dunlawton Ave.	Collector	0.47
		Total Estimated Miles:		22.59

Note (1): City Center defined in smaller segments.

[1] Length estimated (map survey)

Figure 1: Road Network Map (Maintenance)

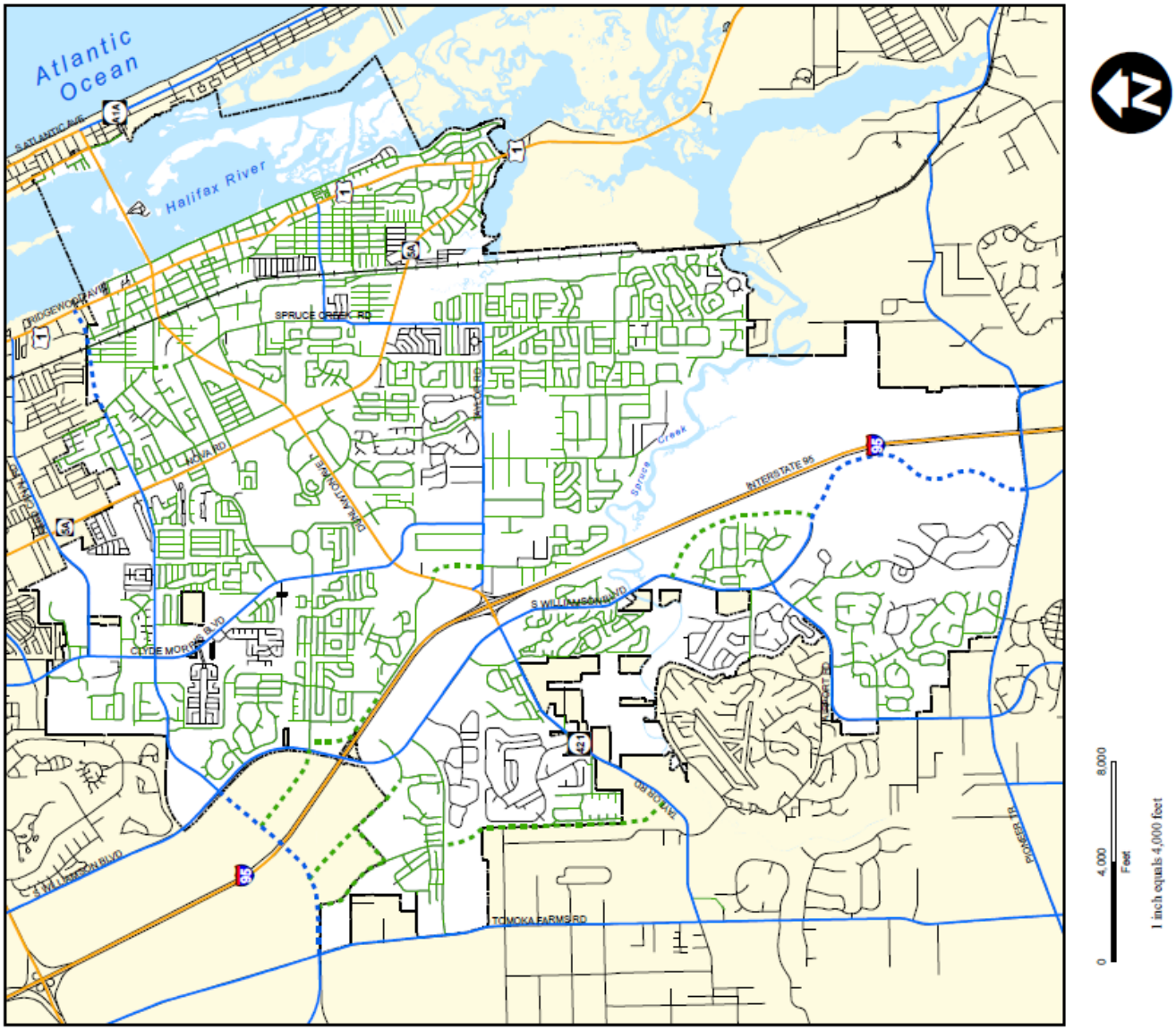


FIGURE 2 - 2

Roadway Maintenance

Existing (2009) & Proposed (2025)

Legend

- State Maintained
- County Maintained
- Proposed County Maintained
- City Maintained
- Proposed City Maintained
- FEC Railroad
- City Boundary

City of Port Orange

COMPREHENSIVE PLAN UPDATE 2010

SOURCE: City of Port Orange Community Development July 2010

Figure 2: Road Network Map (Functional Classification)

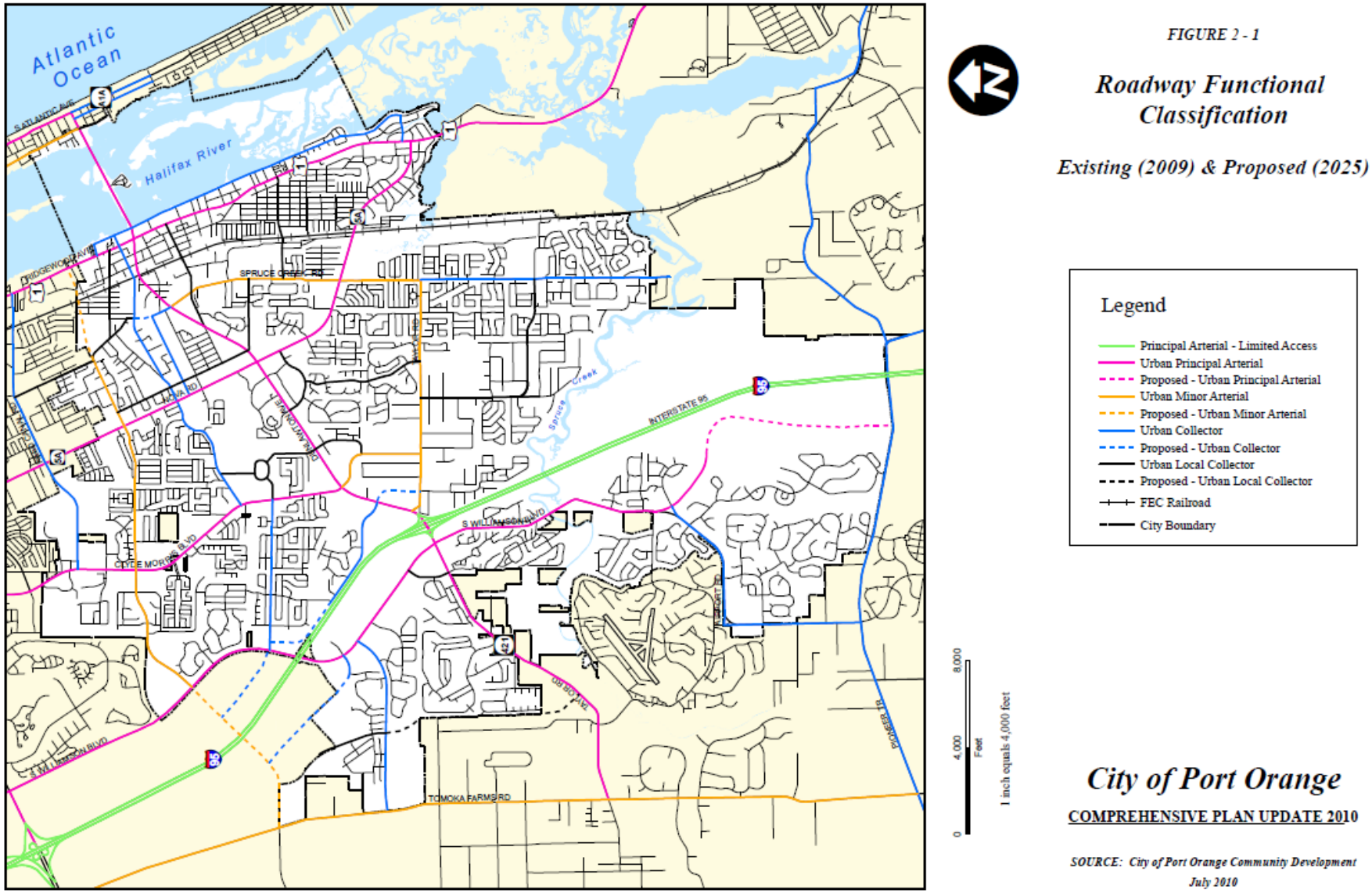


Figure 3: Road Network Map (Project Level of Service)

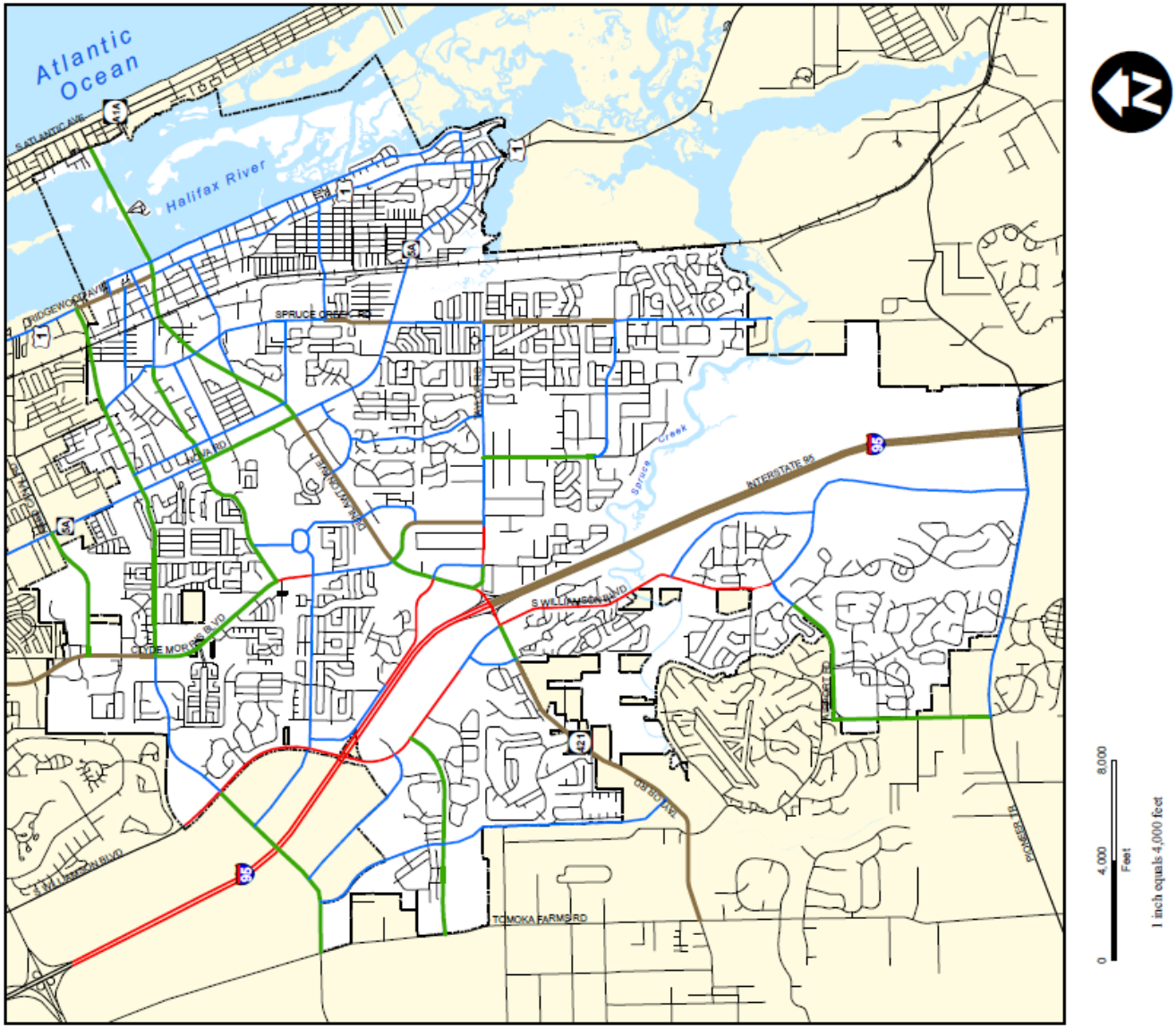


FIGURE 2 - 10

Roadway Level of Service (2025)

Legend

Level of Service

- LOS A
- LOS B
- LOS C
- LOS D
- LOS E
- LOS F

City of Port Orange

COMPREHENSIVE PLAN UPDATE 2010

SOURCE: City of Port Orange Community Development July 2010

Table 2: Traffic Volumes and Volume to Capacity Ratios (FDOT)

Station	Location	Segment	AADT	No. of Lanes	Undivided / Divided	MSV at LOS D	MSV Adjustment Factor [1]	MSV	V/C
798094	Reed Canal Rd	Reed Canal Rd, E of Clyde Morris Blvd	6,700	2	Undivided	13,300	5%	13,965	48%
797090	Clyde Morris Blvd	Clyde Morris Blvd, 0.22 Mi N of Madeline Ave	25,000	4	Divided	35,500	5%	37,275	67%
798146	S Williamson Blvd	Williamson Blvd (S), N of SR-421/Taylor Rd	17,300	4	Divided	35,500	0%	35,500	49%
797081	S Williamson Blvd	On S Williamson Blvd., 1.25 Miles North of I-95	17,900	2	Divided	16,200	0%	15,390	116%
790213	Ridgewood Ave	On US-1, 0.619 Mi. N of A1A (Dunlawton Ave.)	24,000	6	Divided	53,500	5%	56,175	43%
797096	Charles St	Charles St, 0.43 Mi W of US-1/Ridgewood Ave	2,300	2	Undivided	13,300	0%	12,635	18%
798116	Halifax Dr	Halifax Dr/Ocean Ave, N of Sr-A1A/Dunlawton	600	2	Undivided	13,300	0%	12,635	5%
798098	Herbert St	Herbert St, E of Clyde Morris Blvd	7,100	2	Undivided	13,300	0%	12,635	56%
798099	Canalview Blvd	Canal View/Spruce Creek, E of SR-5A/Nova Rd	8,200	2	Undivided	13,300	0%	13,300	62%
791017	Nova Rd	On SR-5A (Nova Rd), 0.442 Mi. N of SR-421	18,000	4	Divided	35,500	0%	35,500	51%
790458	Nova Rd	On SR-5A, 1.194 Mi. N of US-1	18,200	4	Divided	35,500	0%	35,500	51%
798220	Willow Run Blvd	Willow Run, 800' E of Williamson Blvd	7,300	2	Undivided	13,300	0%	13,300	55%
798165	Tomoka Farms Rd	Tomoka Farms Rd, N of Taylor Rd	9,900	2	Undivided	16,200	0%	16,200	61%
798219	Town West Blvd	County Town W Blvd, 900' W of Williamson Ave	8,000	2	Divided	13,300	5%	13,965	57%
797075	Taylor Rd	Taylor Rd, 0.17 Mi W of S Williamson Blvd.	15,300	2	Undivided	16,200	5%	17,010	90%
790517	Dunlawton Ave	On SR-421, 0.394 Mi. NE of I-95	52,000	6	Divided	53,500	5%	56,175	93%
791014	Dunlawton Ave	On SR-421, 0.252 Mi. W Of SR-5A	39,000	6	Divided	53,500	5%	56,175	69%
791015	Dunlawton Ave	On SR-421, 0.4385 Mi. E of SR-5A	32,000	4	Divided	35,500	5%	37,275	86%
795181	Dunlawton Ave	On SR-421, 0.804 Mi. W of SR-5	25,500	4	Divided	35,500	5%	37,275	68%
790427	Dunlawton Ave	On SR A1A, 0.38 Mi. E of US-1	24,500	4	Divided	35,500	0%	35,500	69%

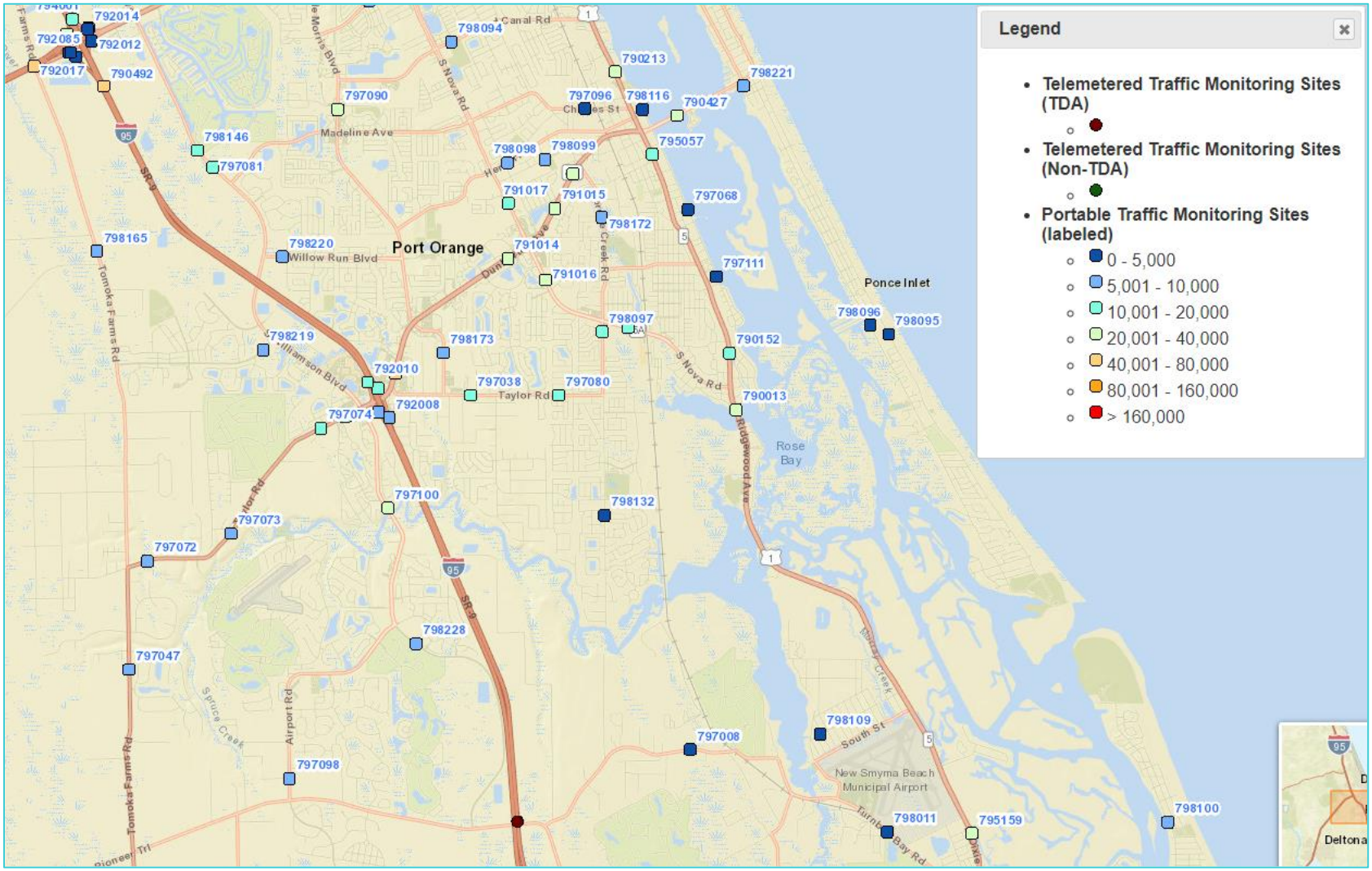
[1] Median & Turn Lane Adjustments

Table 2 (Continued)

Station	Location	Segment	AADT	No. of Lanes	Undivided / Divided	MSV at LOS D	MSV Adjustment Factor [1]	MSV	V/C
798221	S Peninsula Dr	S Peninsula Dr/Demotte Ave 300' S of Dunlawton Ave	5,700	2	Undivided	13,300	0%	13,300	43%
797068	Riverside Dr	Halifax Dr, 0.85 Mi S of Dunlawton Ave	1,000	2	Undivided	13,300	0%	13,300	8%
797111	Riverside Dr	Halifax/Riverside, 1.52 Mi S of Dunlawton Ave	750	2	Undivided	13,300	0%	13,300	6%
795057	Ridgewood Ave	On US-1, 0.246 Mi. S of SR-A1A	17,600	4	Divided	35,500	0%	35,500	50%
790152	Ridgewood Ave	On US-1, 0.684 Mi. N of SR-5A (Nova Rd)	15,700	4	Divided	35,500	0%	35,500	44%
790013	US-1	On US-1, 0.23 Mi. S of SR-5A (Nova Rd)	23,500	4	Divided	35,500	0%	35,500	66%
798172	Spruce Creek Rd	Spruce Creek Rd, N of Commonwealth Ave	6,100	2	Undivided	13,300	0%	13,300	46%
798097	Spruce Creek Rd	Spruce Creek/Commonwealth, N of Taylor Rd	14,400	4	Divided	35,500	0%	35,500	41%
797080	Taylor Rd (SR 421)	Taylor Road, 0.43 Mi W of Spruce Creek Rd	12,400	4	Divided	35,500	0%	35,500	35%
797038	Taylor Rd (SR 421)	Taylor Road, Dunlawton Avenue/SR-421 to Spruce Creek Road	18,500	2	Undivided	13,300	0%	13,300	139%
798132	Spruce Creek Rd	Spruce Creek Rd, N of Hewitt Dr	400	2	Undivided	13,300	0%	13,300	3%
797100	S Williamson Blvd	S Williamson Blvd, 1.01 Mi S of Taylor Rd	21,500	4	Divided	35,500	0%	35,500	61%
798228	S Williamson Blvd	S. Williamson Blvd, S of Pioneer Trail	5,400	4	Divided	35,500	0%	35,500	15%

Source: FDOT Florida Traffic Online

Figure 4: FDOT Monitoring Stations



Source: Florida Traffic Online

Traffic Volume Data

The City of Port Orange Annual Count Program is to monitor and present the traffic volumes on the city's roadway network. The most recent 2022 count program is comprised of thirty (30) count stations, which include thirty (30) State roadway segments and seventeen (17) roadways within the City of Port Orange. The traffic volumes presented in this Annual Count Program are the result of tube counts collected by Traffic Engineering Data Solutions, Inc.

Similarly, Volusia County collects traffic count data as a means of monitoring roadway level of service characteristics. The most recent available data is for the year 2021.

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Table 3: Traffic Volumes and Volume to Capacity Ratios (City Roads)

Roadway	Segment	Count Station	Number of Lanes	Functional Class	Adopted LOS Standard	LOS Capacity	2021 AADT	2022 AADT	Existing LOS	% Change	V/C Ratio
Canal View Blvd.*	Nova Rd. to Spruce Creek Rd.	201	2	CO	E	12,744	2,050	1,229	B	-40.05%	9.64%
Central Park Blvd.	Hensel Rd. to Spruce Creek Rd.	2201	2	Local	E	12,744	2,449	2,822	B	15.23%	22.14%
Charles St.	Ridgewood Ave. to FEC Railroad	301	2	Local	E	12,744	1,408	1,615	B	14.70%	12.67%
Charles St.	FEC Railroad to McDonald Rd.	302	2	Local	E	12,744	2,158	2,239	B	3.75%	17.57%
City Center Pkwy.	Dunlawton Ave. to City Center Cir.	2401	2	Local	E	12,744	4,341	5,157	B	18.80%	40.47%
City Center Blvd.	Clyde Morris to City Center Cir.	2402	2	Local	E	12,744	3,875	4,534	B	17.01%	35.58%
City Center Dr.	Herbert St. to City Center Cir.	2403	2	Local	E	12,744	2,210	2,335	B	5.66%	18.32%
Country Ln.	Village Trail to Smokerise Blvd.	601	2	Local	E	12,744	5,394	5,535	B	2.61%	43.43%
Country Ln.	Smokerise Blvd. to Taylor Rd.	602	2	Local	E	12,744	4,212	4,357	B	3.44%	34.19%
Hensel Rd.	Taylor Rd. to Central Park Blvd.	1001	2	local	E	12,744	6,268	6,757	B	7.80%	53.02%
Herbert St.	Ridgewood Ave. to Nova Rd.	903	2	CO	E	12,744	6,403	7,050	C	10.10%	55.32%
Herbert St.	Nova Rd. to City Center Dr.	904	2	CO	E	12,744	8,159	8,385	C	2.77%	65.80%
Herbert St.	City Center Dr. to Clyde Morris	905	2	CO	E	12,744	7,129	8,183	C	14.78%	64.21%
McDonald Rd.	Charles St. to Madeline Ave.	1201	2	Local	E	12,744	2,924	2,979	B	1.88%	23.38%
Madeline Ave.	Sauls Rd. to Nova Rd.	1164/1301	2	MA	E	14,040	4,414	5,059	B	14.61%	36.03%
Madeline Ave.	Nova Rd. to Clyde Morris Blvd.	1163/1303	2	MA	E	14,040	9,033	9,319	C	3.17%	66.37%
Madeline Ave.	Clyde Morris Blvd. to Williamson	1161/1304	2	MA	E	14,040	12,233	13,943	D	13.98%	99.31%

Table 3 (Continued)

Roadway	Segment	Count Station	Number of Lanes	Functional Class [1]	Adopted LOS Standard	LOS Capacity	2021 AADT	2022 AADT	Existing LOS	% Change	V/C Ratio
Spruce Creek Rd.	Central Park Blvd. to Merrimac Dr.	1701	2	CO	E	12,744	5,839	6,384	B	9.33%	50.09%
Spruce Creek Rd.	Merrimac Dr. to Taylor Rd.	1702	2	CO	E	12,744	9,773	10,938	C	11.92%	85.83%
Spruce Creek Rd.	Merrimac Dr. to Taylor Rd.	1702	2	CO	E	12,744	9,773	10,938	C	11.92%	85.83%
Spruce Creek Rd.*	Dunlawton to Canal View Blvd.	1708	2	CO	E	13,640	2,535	1,519	B	-40.08%	11.14%
Town West Blvd.	Williamson Blvd. to Coraci Blvd.	100	2	CO	E	17,900	7,909	8,022	B	1.43%	44.82%
Town West Blvd.	Coraci Blvd. to Tomoka Farms Rd.	110	2	CO	E	17,900	3,973	4,298	B	8.18%	24.01%
Victoria Gardens Blvd.	S. of Dunlawton Ave.	2501	2	Local	E	15,930	3,255	3,342	B	2.67%	20.98%
Victoria Gardens Blvd.	E. of Clyde Morris Blvd.	2502	2	Local	E	15,930	2,232	2,391	B	7.12%	15.01%
Village Trail	Dunlawton Ave. to Country Ln.	1901	2	Local	E	15,930	6,597	7,081	B	7.34%	44.45%
Village Trail	Country Ln. to Nova Rd.	1902	2	Local	E	15,930	7,782	7,965	B	2.35%	50.00%
Willow Run	Clyde Morris Blvd. to Hidden Lakes	2013	3	CO	E	30,420	10,243	10,480	B	2.31%	34.45%
Willow Run	Hidden Lakes Dr. to Williamson Blvd.	2010	2	CO	E	14,040	7,502	7,797	C	3.93%	55.53%
Yorktowne Blvd.	North of Dunlawton Ave.	2080	2	CO	E	17,050	3,334	3,921	B	17.61%	23.00%

*Canal View Blvd. was closed during 2022 traffic counts to local traffic only

Source: City of Port Orange (Data derived from Traffic Engineering Data Solutions, Inc., 2022)

[1] UPA = Urban Principal Arterial, MA = Minor Arterial, CO/UCO = Collector/Urban Collector (TPO and/or City Sources)

Table 4: Traffic Volumes and Volume to Capacity Ratios (Volusia County Roads)

Roadway	Segment	Count Station	Number of Lanes	Functional Class	Adopted LOS Standard	LOS Capacity	2020 AADT	2021 AADT	Existing LOS	% Change	V/C Ratio
Airport Road	Pioneer Trail-Williamson	64	2	CO	E	32,600	6,260	7,310	B	16.77%	22.42%
Clyde Morris Blvd.	N. City Limits to Madeline Ave.	335	4	UPA	E	37,970	21,160	21,520	C	1.70%	56.68%
Clyde Morris Blvd.	Madeline Ave. to Willow Run	333	4	UPA	E	37,970	18,820	23,390	C	0.24	61.60%
Clyde Morris Blvd.	Willow Run Blvd. to Dunlawton Ave.	332	4	UPA	E	37,970	16,850	19,360	C	14.90%	50.99%
Clyde Morris Blvd.	Dunlawton Ave. to Taylor Rd.	330	2	UMA	E	17,050	8,210	9,150	C	11.45%	53.67%
Commonwealth	Spruce Creek Rd. to FEC Railroad	360	2	MA	E	13,640	5,260	5,510	C	4.75%	40.40%
Commonwealth	FEC Railroad to Ridgewood Ave.	361	2	MA	E	13,640	3,850	3,830	C	-0.52%	28.08%
Pioneer Trail	Airport-Turnbull Bay Rd.	1465	2	UC	E	13,640	6,320	7,380	C	16.77%	54.11%
Reed Canal Rd.	Nova Rd-Clyde Morris Rd.	1561	2	UC	E	13,640	6,350	6,460	D	1.73%	47.36%
Spruce Creek Rd.	Taylor Rd. to Nova Rd.	1751	4	UMA	E	37,970	13,180	14,740	C	11.84%	38.82%
Spruce Creek Rd.	Commonwealth to Dunlawton Ave.	1755	2	MA	E	13,640	No Data	No Data	D	-	-
Taylor Rd.	Hensel Rd. to Spruce Creek Road	1826	4	MA	E	37,970	14,760	14,800	C	0.27%	38.98%
Taylor Rd.	Clyde Morris Blvd. to Hensel Rd.	1824	4	MA	E	37,970	16,970	16,970	C	0.00%	44.69%
Taylor Rd.	Dunlawton Av. to Clyde Morris Blvd.	1823	2	MA	E	14,040	14,710	12,780	D	-13.12%	91.03%
Taylor Rd.	Williamson Blvd. to I-95	1814	5	UPA	E	47,560	48,950	44,340	D	-9.42%	93.23%
Taylor Rd.	Summer Trees Rd. to Williamson Blvd.	1813	4	UPA	E	37,970	17,200	18,120	C	5.35%	47.72%
Taylor Rd.	Crane Lakes Blvd. to Summer Trees Rd.	1812	2	UPA	E	17,050	15,000	14,840	C	-1.07%	87.04%

Table 4 (Continued)

Roadway	Segment	Count Station	Number of Lanes	Functional Class [1]	Adopted LOS Standard	LOS Capacity	2020 AADT	2021 AADT	Existing LOS	% Change	V/C Ratio
Williamson Blvd.	N. City Limits to Madeline Ave.	1993	2	UPA	E	17,050	15,200	14,430	D	-5.07%	84.63%
Williamson Blvd.	Madeline Ave. to Willow Run Blvd.	1992	2	UPA	E	17,050	15,200	14,840	D	-2.37%	87.04%
Williamson Blvd.	Willow Run Blvd. to Town West	1991	2	UPA	E	17,050	15,880	17,140	F	7.93%	100.53%
Williamson Blvd.	Town West Blvd. to Taylor Rd.	1990	2	UPA	E	37,970	18,330	19,440	C	6.06%	51.20%
Williamson Blvd.	Taylor Rd. to Spruce Creek Bridge	66	4	UPA	E	37,970	20,920	25,040	C	19.69%	65.95%
Williamson Blvd.	Spruce Creek Bridge to Airport Rd.	65	4	UPA	D	37,970	20,130	22,550	C	12.02%	59.39%
Williamson Blvd.	Airport Rd. to Pioneer Trail	1989	4	UPA	D	37,970	5,940	6,100	C	2.69%	16.07%

Source: City of Port Orange (Data derived from Volusia County Traffic Engineering, 2021)

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[1] UPA = Urban Principal Arterial, MA = Minor Arterial, CO/UCO = Collector/Urban Collector (TPO and/or City Sources)

Table 5: Traffic Volumes and Volume to Capacity Ratios (State Roads)

Roadway	Segment	Count Station	Number of Lanes	Functional Class [1]	Adopted LOS Standard	LOS Capacity	2020 AADT	2021 AADT	Existing LOS	% Change	V/C Ratio
Dunlawton Ave.	Peninsula Dr. to Ridgewood Ave.	427	4	PA	D	32,400	24,500	24,500	D	0%	75.62%
Dunlawton Ave.	Ridgewood to Spruce Creek Rd.	5181	4	PA	D	39,800	25,500	25,500	C	0%	64.07%
Dunlawton Ave.	Spruce Creek Rd. to Nova Rd.	1015	4	PA	D	39,800	32,000	32,000	C	0%	80.40%
Dunlawton Ave.	Nova Rd. to Clyde Morris Blvd.	1014	6	PA	D	59,900	39,000	39,000	C	0%	65.11%
Dunlawton Ave.	Clyde Morris Blvd. to I-95	517	6	PA	D	59,900	52,000	52,000	C	0%	86.81%
Nova Rd.	Madeline Ave. to Dunlawton Ave.	1017	4	UPA	D	39,800	18,000	18,000	C	0%	45.23%
Nova Rd.	Dunlawton to Spruce Creek Rd.	1016	4	UPA	D	39,800	27,000	27,000	C	0%	67.84%
Nova Rd.	Spruce Creek Rd.to Ridgewood Av.	458	4	UPA	D	39,800	20,500	18,200	C	-11.22%	45.73%
Ridgewood Ave.	N. City Limits to Dunlawton Ave.	213	4	UPA	D	39,800	24,000	24,000	C	0%	60.30%
Ridgewood Ave.	Dunlawton Ave. to Oak St.	5057	4	UPA	D	39,800	20,200	17,600	C	-12.87%	44.22%
Ridgewood Ave.	Oak St. to Nova Rd.	152	4	UPA	D	39,800	15,500	15,700	C	1.29%	39.45%
Ridgewood Ave.	Nova Rd. to S. City Limits	13	4	UPA	D	65,600	23,500	23,500	B	0%	35.82%
I-95	Beville Rd. to Dunlawton Ave.	492	4	SIS	D	111,800	58,000	81,500	C	40.52%	72.90%
I-95	Dunlawton Ave. to SR 44	133	4	SIS	D	111,800	43,036	50,700	B	17.81%	45.35%

Source: City of Port Orange (Data derived from Volusia County Traffic Engineering, 2021)

[1] UPA = Urban Principal Arterial, PA = Principle Arterial, SIS = Strategic Intermodal System

Existing and Future Land Use

The City of Port Orange is an incorporated municipality with a year-round residential population estimated at 62,596 persons in 2021 [1]. Located in Volusia County (County) north of New Smyrna Beach and south of South Daytona/Daytona Beach, the City comprises 26.79 square miles and provides an array of services to year-round and seasonal residents.

The strategies of the past 20 years have served the City well in realizing its vision of becoming a progressive, high-quality community. Consequently, the community has pivoted its focus from growth to sustainability. Realizing the vision of sustainability will take a continued effort over the next 20 years to achieve, the City is employing the strategies listed below, which are organized into five categories that form the foundation of the sustainable city: land use, mobility, people, energy, and the environment.

Land Use:

- Integration of land uses to bring people closer to their destinations and reduce trip lengths.
- Increasing the supply of non-residential land and square footage for shopping, services, and employment.
- Designing new centers and retrofitting existing according to urban design principles.
- Providing incentives and removing regulatory barriers to guide new growth to areas where appropriate while reinvesting in older areas of the City and infill parcels.
- Encouraging small-scale agricultural uses to provide a portion of the local food supply.

Mobility:

- Designing future transportation improvements to increase mobility, access, and choice.
- Enhancing the City's "complete streets" to better accommodate the travel modes.
- Guiding density and intensity into mixed-use centers along designated transit corridors to increase ridership.
- Where appropriate, reducing the parking requirements.
- Utilizing urban design principles appropriate to each part of the City that make the best use of available travel modes, corridors, and opportunities.
- Increasing the connectivity between places to reduce travel distance and make walking and cycling more convenient.

People:

- Increasing the City's jobs/housing balance to reduce travel to another city for meaningful employment.
- Embracing "place-making" as a design principle in new development and redevelopment.
- Allowing residential areas to include the variety of housing types needed by people at all stages in their lives.
- Designing civic buildings, parks, and the public realm so that they add character, build value, promote security, support cultural activities, and help residents feel proud of their community.
- Providing more opportunities for citizens to enjoy healthy, active living.

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[1] US Census Bureau

Energy:

- Enabling and encouraging home and business owners to achieve greater energy independence by removing regulatory barriers, providing incentives, and creating guidelines to maximize the use and efficiency of private renewable energy systems.
- Increase the amount of energy the City government generates for its own needs from renewable sources.
- Striving to reduce the City's contribution to global climate change.
- Employing methods to reduce vehicle miles traveled (VMTs) and greenhouse gas (GHG) emissions.
- Promoting energy conservation techniques that incorporate Federal Energy Star Standards, as consistent with the requirements of the Florida Building Code.

Environment:

- Creating, protecting and managing systems of green infrastructure (e.g., urban forests, parks and open spaces).
- Protecting floodplains, wetland and stream corridors, critical wildlife habitat, and other environmentally sensitive ecosystems.
- Minimizing property damage caused by hurricanes and flooding by building in appropriate areas and removing or raising structures from low-lying areas.
- Providing incentives to create new usable, useful open space, such as allowing community gardens and green roofs to count toward the required open space on any development site.
- Reducing the amount of potable water consumption city-wide through conservation, greater efficiency, and Florida-friendly landscaping. Increase the percentage of water used from renewable sources (rainfall and stormwater runoff).

The Future Land Use Map (FLUM) for Port Orange is currently being updated in conjunction with the Comprehensive Plan update. The existing maps that illustrate the redevelopment areas and general locations of commercial nodes may be the same or similar as a result of the update, as the city is near build-out and, as previously discussed, is focused on sustainability.

Nevertheless, development continues to occur throughout the City and it is being managed consistent with the strategies listed above for land use, mobility, people, energy, and the environment. Table 6: Development Activity, provided in the next section, describes the various development activities currently underway.

Figure 5 shows the location of redevelopment areas.
Figure 6 shows the general location of commercial nodes.

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Figure 5: Location of Redevelopment Areas

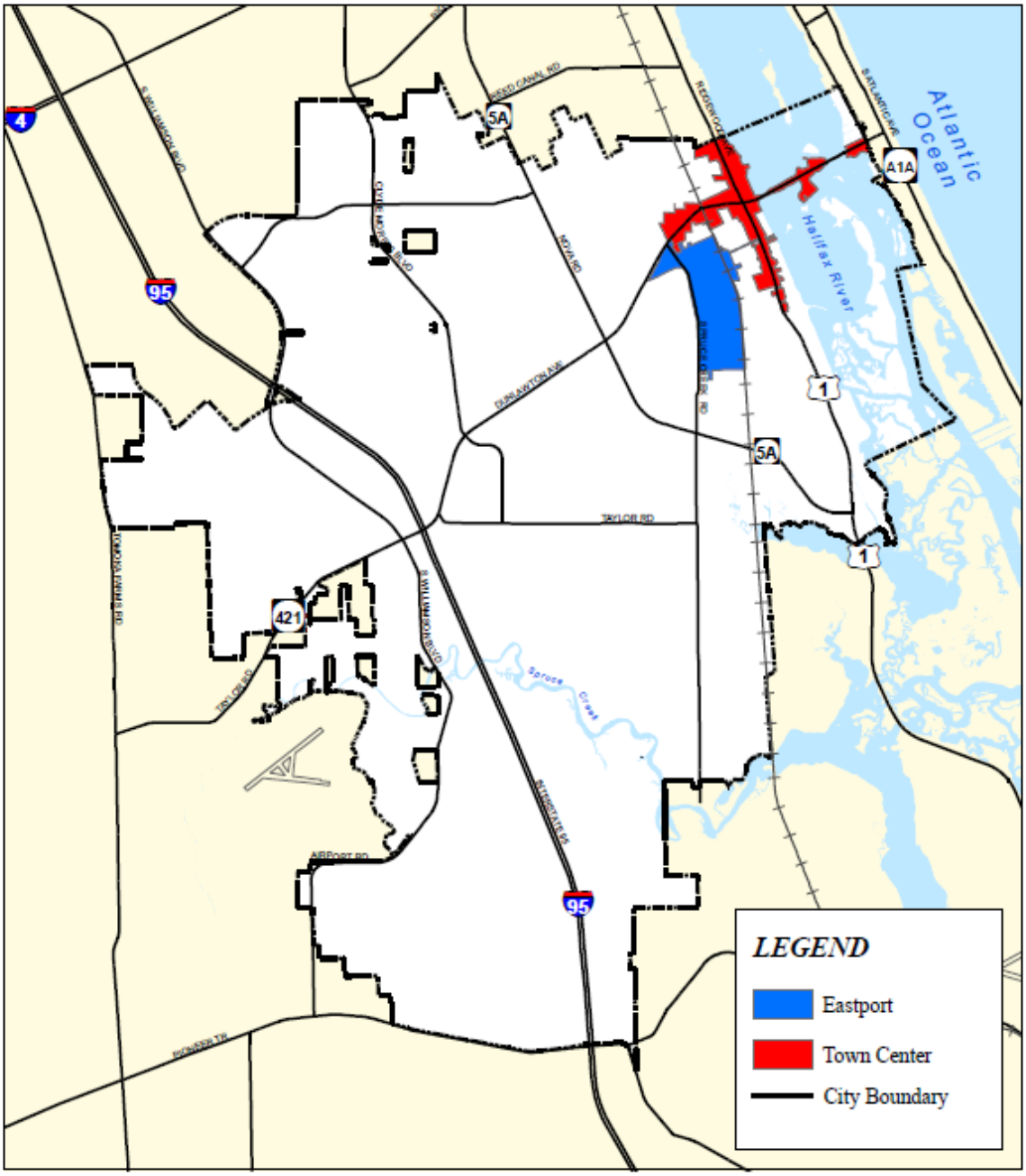


FIGURE 1 - 7

Location of Redevelopment Areas

CITY OF PORT ORANGE

COMPREHENSIVE PLAN UPDATE 2010

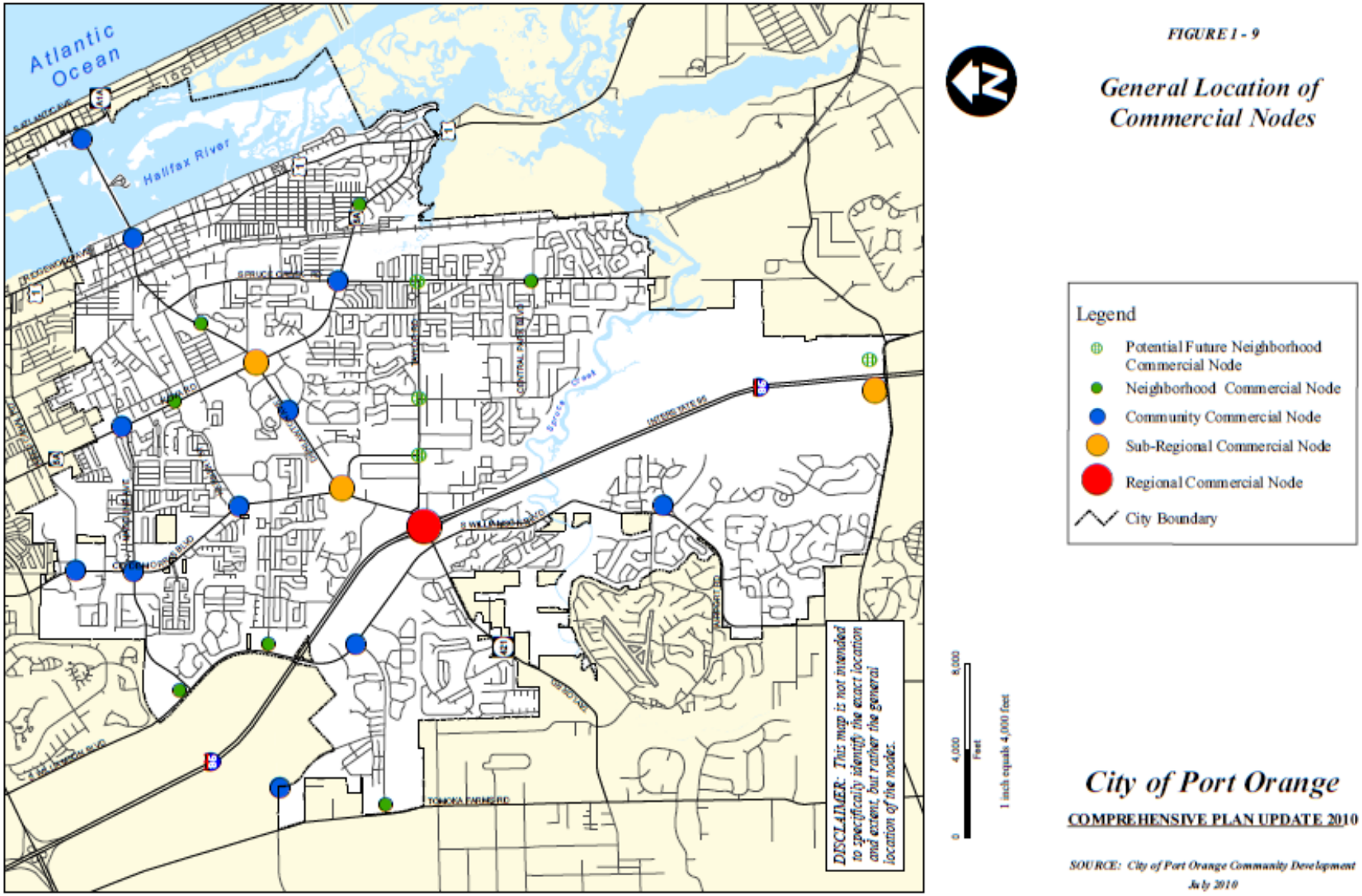
SOURCE: City of Port Orange Community Development

July 2010

0 6,000 12,000

1 inch equals 6,000 feet

Figure 6: General Location of Commercial Nodes



DEVELOPMENT ACTIVITY

The official website for the City of Port Orange (port-orange.org) includes a development activity dashboard that shows geographic locations of project activity; including, residential, non-residential, roadway projects, and public hearings. The following table provides current information (October 2022) regarding projects in these categories, demonstrating the continued growth and redevelopment of the city.

Table 6: Development Activity

Type	Project Name	Status	Description
Non-Residential	Advent Health Port Orange	Under Construction	Construction of the Advent Health Port Orange project in two phases. Phase one includes the previously approved Emergency Department building, stormwater improvements, access driveways, and associated landscaping and parking. Phase two includes the construction of the previously approved two-story medical office building with an increased building footprint and remaining associated site improvements.
Non-Residential	Astro Roofing	Under Review	Construction of a 2,100 square foot construction and home improvement contractor building and yard, including associated site improvements.
Non-Residential	Catfish Commons Retail Building	Under Review	Construction of a 6,404 square-foot multi-tenant commercial building, along with associated site improvements.
Non-Residential	Christ The King Community Church	Under Review	Construction of a ±9,111 square foot Church with associated site improvements, including but not limited to site utilities, sidewalks, parking, and storm water retention.
Non-Residential	Clean Machine Port Orange	Under Construction	Construction of a 3,683 square-foot automated car wash facility including a single drive-through tunnel, 26 self-service vacuum stalls, and associated site improvements.
Non-Residential	Conviva (New Port Lot 4)	Under Construction	Construction of a +/- 9,000 square-foot medical office building and associated site improvements.
Non-Residential	Crane Lakes Depot	Under Construction	A phased development that includes a 37,809 square-foot 2-story climate-controlled storage facility, seven (7) 1-story self-storage buildings (22,173 square feet total), an RV and boat storage parking area as part of Phase I; a 6,082 square-foot office/retail building as part of Phase II; and associated site improvements.
Non-Residential	Eastport Lot 9B Site Plan	Under Construction	Construction of a 14,505 SF building with associated site improvements.
Non-Residential	Eddin Medical Office	Under Construction	Construction of an 1,800 square-foot medical office building with associated site improvements.
Non-Residential	Eddin Retail	Under Review	Construction of a one-story 2,880 square-foot multi-tenant commercial building with associated site improvements.
Non-Residential	Extra Space Storage	Under Review	Construction of a 3-story, 96,873 square-foot climate-controlled storage facility building, three mini-storage buildings totaling 12,455 square-foot, a 1,344 square foot leasing office, 11 covered vehicle and boat storage spaces, and associated site improvements.
Non-Residential	Halifax Health at Oakwater	Under Review	Modification of an approved site plan for a ± 7,000 square foot Halifax Health Emergency Room medical clinic, a ± 13,775 square-foot medical office, and ± 8,961 square-foot multi-tenant medical office/retail/restaurant building, along with associated site improvements, on 5.85 acres, located at the north east corner of S. Williamson Boulevard and Oakwater Lane.
Non-Residential	Hampton Manor	Under Review	Construction of an 88 bed (83,374 square-foot) assisted living facility development including associated site improvements.

Type	Project Name	Status	Description
Non-Residential	Holiday Inn Express	Under Construction	Construction of a 5-story hotel with 80 rooms on ±2 acres, along with associated site improvements.
Non-Residential	Millie's Landing	Under Review	A site plan for a riverfront restaurant with live entertainment. The redevelopment plan includes maintaining the existing thatched pavilion for outdoor seating, constructing a new kitchen from shipping containers, constructing new shared bathroom for Millie's Landing and Two Jerks Seafood within the existing Two Jerk's Seafood building, and parking modifications to increase the number of parking spaces and improvement to layout. The redevelopment plan also includes maintaining the Two Jerks Seafood business located in the building at the northwest corner of the site. The subject property is located under the Dunlawton Avenue bridge, between Jimmy Hula's and the Halifax River, in the Down Under area of the Port Orange Town Center (POTC) Community Redevelopment Area (CRA).
Non-Residential	Mister Car Wash Site Plan Modification	Under Review	A site plan modification of the existing Mister Car Wash development including changes to the parking lot layout, reconfiguration of the pay station lanes, additional vacuum stations, and relocation of the dumpster enclosure.
Non-Residential	O2B Kids - New Port Lot 5	Under Review	A proposed site plan for an 11,050 square foot O2B Kids child care facility development including associated site improvements.
Non-Residential	Oak Street Industrial Park	Under Construction	Construction of an office/warehouse complex with 19 buildings on 11.92 acres along with associated site improvements.
Non-Residential	Olson Custom Homes Site Plan	Under Review	A site plan for a 5,165 square-foot office building and a 4,800 square-foot office and storage building, including associated site improvements.
Non-Residential	Paytas Office Building	Under Construction	Construction of one (1) +/- 11,032 square-foot office building and design center for Paytas Homes with associated site improvements on ± 1.15 acres.
Non-Residential	Port Orange Field Operations Facility	Under Review	Construction of a 11,398 square-foot office building and a 16,674 square-foot warehouse, with associated site improvements.
Non-Residential	Port Orange Neighborhood Storage	Under Construction	Construction of a +/- 790 unit mini-storage facility on a 2.26-acre site with associated site improvements.
Non-Residential	Port Orange Recreation Center Remodel	Under Construction	Remodel and expand the existing Port Orange Recreation Center along with associated site improvements.
Non-Residential	Riverwalk Fysh Bar and Grill	Under Construction	Construction of a 456-seat restaurant, parking lot on the west side of the Riverwalk Public Trail & Park, and associated site and landscape improvements.
Non-Residential	Shoppes at Summer Trees	Under Review	Construction of 20,260 square-foot grocery store and 2,350 square-foot empty shell expansion space, 7,770 square-foot multi-tenant building, and a vacant future commercial outparcel with associated site improvements.
Non-Residential	Store-It Self Storage	Under Construction	Construction of a 104,552 square-foot storage (94,052 square feet) and retail (10,500 square feet) development with associated on-site and off-site improvements.
Non-Residential	Thompson Pump	Under Review	Proposed construction of one +/- 125,141 square-foot building, one +/- 38,000 square-foot building, a future out parcel, and associated site improvements on +/- 15.45 acres.

Type	Project Name	Status	Description
Non-Residential	Thrive Community Church	Under Review	Phase 2 of the Thrive Community Church development, to construct a new house of worship and associated site improvements.
Non-Residential	Town West Final Plat and Plans	Under Construction	Subdivision of +/- 12.4 acres into two lots.
Non-Residential	Town West Senior Living Apartments	Under Construction	Construction of a 117-unit senior living facility and future commercial outparcel.
Non-Residential	Woodspring Suites	Under Review	Construction of a 122-room (±50,032 square feet) hotel with associated site improvements.
Public Hearing	Crystal Lake PUD	Under Review	An amendment to the Crystal Lake PUD Master Development Agreement to add the mini-warehouse use to Lots 13-53 through 13-84.
Public Hearing	Flagship Commons Plat	Under Review	A subdivision plat to create a 2-lot commercial subdivision at 950 Madeline Avenue.
Public Hearing	Leila's Hammock	Under Review	Subdivision Plat & Plans, located at Old Hammock Road.
Public Hearing	Madeline Commons Subdivision	Under Review	A subdivision plat and plan have been submitted to create a 149 single-family lot subdivision, with associated on-site and off-site subdivision improvements.
Public Hearing	Port Orange Christian Church	Under Review	Rezoning +/-3.2 acres from Community Commercial (CC) to Government Public Use (GPU) to allow the church to remain in its current location and expand the existing building.
Residential	Country Apartments	Under Construction	Conversion of an abandoned ±10,585 square-foot Assisted Living Facility into a 14-unit apartment building with associated site improvements.
Residential	Eden at Crystal Lake Apartments	Under Construction	Construction of a 288-unit apartment complex with clubhouse and pool amenity, along with associated site improvements. Formerly known as Lazul at Crystal Lake.
Residential	Hawks Mill Apartments	Under Construction	Construction of a 360-unit apartment complex along with associated site improvements. Formerly known as Osprey Pointe.
Residential	King's Landing Subdivision	Under Construction	Phase 2 includes subdivision of ±41-acres into 45 single-family lots (13 one-acre lots and 32 - 20,000 square foot lots), along with tracts of land for common area, tree preservation, and stormwater.
Residential	Leila's Hammock Subdivision	Under Review	Subdivision Plat & Plans with proposal by the applicant to subdivide 1.84 acres into 6 single family lots.
Residential	Madeline Commons Subdivision	Under Review	A subdivision plat and plan have been submitted to create a 149 single-family lot subdivision, along with associated on-site and off-site subdivision improvements.
Residential	Villa Nova	Under Review	Proposed construction of a 100-unit multi-family residential development consisting of 2- and 3-story townhouse units.
Residential	Woodhaven Subdivision	Under Construction	Construction (Phase 2) of a residential subdivision with 175 single-family lots and 100 townhomes, along with associated subdivision improvements.
Roadway	Pioneer Trail Interchange	90% plans under review by City staff	Interchange at Pioneer Trail and I-95; FDOT Jurisdiction

Population and Employment

The City of Port Orange and Volusia County have both experienced increases in population from 2010 to 2020. From the year 2000 to 2015, Port Orange's population grew in excess of 20% and continued to grow, after a decrease of population in 2016, in small increments of 1% to 2% per year.

Volusia County's population grew dramatically at a rate of approximately 12% from 2010 to 2020 [1]. Population projections for the years following 2025 to 2050 were then estimated using the results from the BEBR estimates, showing an average 3% increase from the medium estimate. Table 7 shows the results of a population growth analysis from 2010 through 2050. The City of Port Orange and Volusia County have experienced growth and development from market demand, which has increased but fluctuated over the years. Port Orange is approaching a build out condition with limited availability of vacant land. Consequently, if market demand continues, the County will continue to grow at a larger rate than Port Orange. The linear growth projection for Port Orange population is 2% per period.

Table 7: Population Projections (Volusia County)

	2010	2020	2025	2030	2035	2040	2045	2050
Census Data	494,593	553,543						
Low [2]			562,500	567,400	566,200	561,900	556,200	550,300
Medium [2]			592,100	620,100	641,500	659,100	674,200	687,900
High [2]			621,700	672,800	716,900	756,300	792,200	825,500
% Change		12%	7%	5%	3%	3%	2%	2%

Table 8: Population Projections (City of Port Orange)

Year	Population [3]	Percent Change	Projected Population
2040		2%	66,051
2030		2%	64,756
2020	62,596	2%	
2019	61,617	1%	
2018	61,009	2%	
2017	59,625	1%	
2016	59,315	-14%	
2015	68,656	22%	
2010	56,048	21%	
2000	46,283		

[1] US Census (Years 2010, 2020)
[2] University of Florida, Bureau of Economic and Business Research (BEBR), (2025-2050)
[3] US Census (2000 thru 2020)

The economy of Port Orange, FL employs 29.6 thousand people. The largest industries in Port Orange are Health Care & Social Assistance (4,660 people), Retail Trade (4,004 people), and Accommodation & Food Services (2,855 people), and the highest paying industries are Information, Finance & Insurance, and Construction.

From 2019 to 2020, employment in Port Orange grew at a rate of 6.42%, from 27.8 thousand employees to 29.6 thousand employees. The most common job groups, by number of people living in Port Orange are Office & Administrative Support Occupations (4,245 people), Sales & Related Occupations (4,234 people), and Management Occupations (2,232 people). [1] One of the larger businesses in Port Orange is Thompson Pump and Manufacturing. The following Table 9 illustrates the share breakdown of the primary jobs held by residents.

Table 9: Employment by Occupations

Occupation	People in Workforce	Percent	Margin of Error
Office and Administrative Support	4,425	14.30%	± 688
Sales and Related	4,234	14.30%	± 635
Management	2,232	7.53%	± 463
Food Preparation and Serving	2,137	7.21%	± 452
Health Diagnosing & Treating Practitioners & Other Technical	1,938	6.54%	± 625
Education Instruction & Library	1,908	6.44%	± 432
Business & Financial Operations	1,305	4.40%	± 301
Building & Grounds Cleaning & Maintenance	1,303	4.40%	± 473
Installation, Maintenance & Repair	1,189	4.01%	± 286
Construction & Extraction	1,125	3.80%	± 291
Production	1,058	3.57%	± 341
Personal Care & Service	812	2.74%	± 246
Health Technologists & Technicians	780	2.63%	± 406
Healthcare Support	746	2.52%	± 218
Transportation	688	2.32%	± 209
Material Moving	669	2.26%	± 230
Fire Fighting & Prevention, & Other Protective Service Workers	539	1.92%	± 236
Law Enforcement Workers	531	1.79%	± 247
Computer & Mathematical	518	1.75%	± 200
Architecture & Engineering	467	1.58%	± 163
Arts, Design, Entertainment, Sports, & Media	414	1.40%	± 173
Community & Social Service	218	0.97%	± 120
Legal	257	0.87%	± 134
Life, Physical & Social Science	197	0.66%	± 106

Source: Data from the 2020 Census Bureau ACS 5-year Estimate.

[1] https://datausa.io/profile/geo/port-orange-fl/

Methodology

The methodology used for the road impact fee study continues to follow a consumption-based impact fee approach in which new development is charged based upon the proportion of vehicle-miles of travel (VMT) that each unit of new development is expected to consume of a lane mile of roadway network.

Included in this document is the necessary support material used in the calculation of the road impact fee. The general equation used to compute the impact fee for a given land use is:

(Demand x Cost) – Credit = Fee

The "demand" for vehicular travel placed on a transportation system is expressed in units of Vehicle-Miles of Travel (daily vehicle-trip generation rate x the trip length x the percent new trips [of total trips]) for each land use contained in the impact fee schedule. Trip generation represents the average daily rates since new development consumes trips on a daily basis.

The "cost" of building new capacity typically is expressed in units of dollars per vehicle-mile of roadway capacity. Construction costs are derived from the latest averages from the Florida Department of Transportation (FDOT) and recent construction projects in Florida. Similar to trip generation information, construction costs collected statewide and FDOT district wide for various types of transportation projects represent the most robust and appropriate data for analysis.

The "credit" component is an estimate of future non-impact fee revenues generated by new development that are allocated to provide roadway capacity expansion. The impact fee is considered to be an "up front" payment for a portion of the cost of building a vehicle-mile of capacity that is directly related to the amount of capacity consumed by each unit of land use contained in the impact fee schedule, that is not paid for by future tax revenues generated by the new development activity. These credits are required under the supporting case law for the calculation of impact fees where a new development activity must be reasonably assured that they are not being charged twice for the same level of service. More specifically, the input variables used in the fee equation are as follows:

Demand Component

The impact of new development on the roadway network, or demand for facility capacity, is defined and measured in terms of the number of estimated vehicle-miles-traveled for each unit of new development. The first two factors are well documented in the professional literature. In contrast, trip lengths are much more likely to vary between communities, depending on the geographic size and shape of the community and its major roadway system.

The demand is calculated based on the following demand variables:

- Trip Generation by Land Use;
- Percentage of New Trips; and
- Average Trip Length / Assessed Trip Length

TRIP GENERATION

Trip generation information for the average weekday was based on data published in the Trip Generation Manual, 11th Edition by the Institute of Transportation Engineers (ITE), the most recent edition, as well as the associated pass-by tables. Data contained in this publication is generally accepted for use in studies by transportation engineers throughout the nation.

Trip generation rates represent trip ends, or driveway crossings. It is the proportion of travel that is new travel, rather than travel that is already traveling on the road system and is captured by the new development. A one-way trip from home to work counts as one trip end for the residence and one trip end for the workplace, for a total of two trip ends. To avoid over-counting, all trip rates are then divided by two. This splits the travel demand equally between the origin and destination of the trip, and avoids double-charging.

The trip characteristics variables were primarily obtained from three sources: (1) similar studies conducted throughout Florida (Florida Studies Database)[1] and (2) the Institute of Transportation Engineers' (ITE) Trip Generation reference report (11th Edition), and (3) the 2017 National Household Travel Survey (NHTS).

The Florida Studies Database is included in Appendix C. The data in the database is based on actual land use studies and was collected throughout Florida using machine traffic counts and site-specific land use origin-destination surveys. The database was used in this update to refine some of the ITE trip generation rates and percent new trips, when necessary, by including studies specific to Florida.

Kiefer Professional Services estimates trip generation rates for all land uses in an impact fee schedule using the ITE Trip Generation reference report (11th edition) and data from studies in the Florida Studies Database. In instances when both ITE Trip Generation reference report and Florida Studies trip generation rate data are available for a particular land use, the data may be blended together to increase the sample size and provide a more valid estimate of the average number of trips generated per unit of development. If no Florida Studies data is available, only data from the ITE reference report is used in the fee calculation.

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[1] Tindale Oliver and Associates, Inc.

NEW TRIP FACTOR

The actual "traffic impact" of a specific site for impact fee purposes is based on the amount of traffic added to the street system as a result of new development. To accurately estimate new trips generated, adjustments must be made to trip generation rates and equations to account for pass-by trips. The added traffic is adjusted so that each development is assigned only for a portion of trips associated with a specific development and thus reducing the possibility of over-counting by counting only primary trips generated.

Trip rates need to be adjusted by a "new trip factor" to exclude pass-by trips. This adjustment is intended to reduce the possibility of over-counting travel induced by the new development. Pass-by trips are those trips that are already on a particular route for a different purpose and simply stop at a development on that route. For example, a stop at a convenience store on the way home from the office is a pass-by trip for the convenience store. A pass-by trip does not create an additional burden on the street system and therefore should not be counted in the assessment of impact fees.

Commercial and retail land uses generally attract a portion of their trips from vehicles already on the roadway network. Pass-by trips are defined as trips that are already exist on the roadway network visit the land use as part of a larger trip, rather the land use being the origin or destination. As pass-by trips are already on the roadway network, they are excluded from the calculation of impact fees. The 2021 ITE Trip Generation Pass-by Tables, 11th Edition, was used to determine the pass-by rate, and by extension, the new trip percentage for each land use. Additional input from the Florida Studies Database was also used in some instances.

A diverted-linked trip is similar to a pass-by trip, but a diversion is made from the regular route to make an interim stop. The reductions for pass-by trips utilized in this study were drawn from the ITE manual and a summary of Florida origin and destination studies. Raftelis acknowledges the definition and recommended practice of treating diverted linked trips as primary trips, unless otherwise defined through a local, site-specific individual assessment.

AVERAGE TRIP LENGTH

The average trip length is the most difficult travel demand factor to determine. In the context of a transportation impact fee analysis using a consumption-based methodology, the relevant input is the average length of a trip on the major roadway system. The starting point is national data on average trip lengths for specific land uses and trip purposes. While these average trip lengths provide reasonable estimates of relative magnitudes associated with different land use types, the actual distances are likely to be unrepresentative of travel on a city's major roadway system.

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LOCAL ADJUSTMENT FACTOR

The local adjustment factor is used to scale the national trends to the local characteristics. The national averages are referenced to develop a reasonable trip length for the city by applying percentages to associated land use types.

The most recent National Household Travel Survey (NHTS) of 2017 provides an inventory of daily travel in the United States (US) and its major Census Divisions, and add-on areas. It is the only source of national-level statistics on personal travel in the US. The survey series (conducted since 1969) includes demographic data on households, people, vehicles, and detailed information on daily travel by all modes of transportation and for all purposes.

The 2017 NHTS was conducted with major changes in sampling strategy (an address-based sample compared to previous land-line random-digit sample) and methodology (Web-based self-reports compared to previous computer-aided interviewing). General observations can be made from this data as it pertains to trip lengths associated with trip purposes.

Table 10: NHTS Trends in Average Trip Length by Selected Trip Purposes

	Average Vehicle Trip Length						
	A	B	C	D	E	F	G
Trip Purpose:	Work	School/ Daycare/ Religious Activity	Medical/ Dental Services	Shopping	Social/ Recreational	Meals	All
Average Trip Length	11.98	9.11	10.14	7.08	12.6	7.49	9.55

Source: 2017 National Household Travel Survey (Website Query), U.S. Department of Transportation, Federal Highway Administration, 2017 National Household Travel Survey. URL: http://nhts.ornl.gov.

Localized Data

Further investigation of the NHTS raw data reveals trip lengths for specific trip purposes. As a means of developing localized data, the data was refined to show only those trip lengths for the State of Florida of only ten (10) miles or less in length. Table 11 shows the data and subsequent average trip lengths.

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Table 11: Refined NHTS Data

Trip Purpose	Trip Length	Number of Trips	Average Trip Length
Buy Goods	3,743	1,276	2.93
Buy Services	651	220	2.96
Buy Meals	1,880	633	2.97
Errands	555	233	2.38
Recreation	755	244	3.09
Exercise	814	329	2.47
Visit Friends	816	268	3.04
Healthcare	467	128	3.65
Religious - Community	619	158	3.92
Other	71	22	3.23
Regular Home Activities	7,877	2,574	3.06
Work from Home (Paid)	197	76	2.59
Work	1,995	535	3.73
Work Related	228	72	3.17
Volunteer	222	69	3.22
Drop Off / Pickup	1,285	421	3.05
Change Transportation	123	44	2.80
School	497	147	3.38
Childcare	55	15	3.67
Adult care	9	3	3.00
Totals:	22,859	7,467	
		Average Trip Length:	**3.06**

Then selected trip purpose data was then organized in accordance with the published NHTS trip purpose categories to determine the average trip lengths for those categories.

Table 12: Localized Trip Length Ratios

	Average Vehicle Trip Length						
	A	B	C	D	E	F	G
Trip Purpose:	**Work**	**School/ Daycare/ Religious Activity**	**Medical/ Dental Services**	**Shopping**	**Social/ Recreational**	**Meals**	**All**
	3.73	3.38	3.65	2.93	3.04	2.97	3.06
	3.17	3.67	2.47	2.96	3.09	-	-
	-	3.92	-	-	-	-	-
Average	**3.45**	**3.66**	**3.06**	**2.95**	**3.07**	**2.97**	**3.06**

The average trip lengths shown in Table 12 are then applied to the ITE Land Use Categories listed in Table 13.

Table 13: Land Use Category Trip Length Ratios

ITE LUC Range	ITE Land Use Category	Trip Purpose	Trip Length	Assessable Trip Length
000-099	Port and Terminal	All	3.06	0.58
100-199	Industrial	All	3.06	0.58
200-299	Residential	All	3.06	0.58
300-399	Lodging	Social/Recreational	3.07	0.58
400-499	Recreational	Social/Recreational	3.07	0.58
500-599	Institutional	School/Daycare/ Religious Activity	3.66	0.69
600-699	Medical	Medical-Dental Services	3.06	0.58
700-799	Office	Work	3.45	0.65
800-899	Retail	Shopping	2.95	0.56
900-999	Services	All	2.96	0.56
Exception:	Dining	75% of All	2.30	0.44
Exception:	Banking	50% of All	1.53	0.29
Exception:	Service Station	50% of All	1.53	0.29
Exception:	Convenience Store	40% of All	1.22	0.23
Exception:	Fast Food	40% of All	1.22	0.23

While the average trip length should be representative for most commercial land uses, lower figures are recognized as more accurate for certain convenience retail and service uses. The Urban Land Institute (ULI) estimates that neighborhood centers typically have an average trip length radius of about 2 miles in urban areas. Convenience stores are determined to have even shorter average trip lengths. In the methodology for Port Orange, the average trip length was reduced for selected land uses that capture trips within close proximity to neighborhoods. The reductions amount to 75, 40, and 50 percent of the average trip length. These are shown as exceptions to ITE Services Land Use Category for dining, banking, service stations, convenience stores, and fast-food restaurants.

ASSESSABLE TRIP LENGTH

The City of Port Orange impact fees are calculated to address needed capacity improvements on City roadways, which is the City's responsibility. State and federal funds are available to pay for improvements on the interstate highways, and Volusia County collects impact fees within the City of Port Orange that can be used to fund projects on County roadways within the City.

The Vehicle Miles of Travel (VMT) for the city is based upon the report generated by FDOT. The Certified Public Mileage (CPM) of 319.68 submitted by the city, minus the 37.196 functionally classified roads above "local", shows local roads centerline mileage 282.484. Based on the rural urban size of one (1) and the 2021 estimated count of 684, the daily VMT for local roads within Port Orange's city limits is 193,013 or 19 percent (19%) of the VMT that occurs within the City of Port Orange. The rest of the VMT (81%) occurs on County/State/Federal roadways which are not the responsibility of the City even though they are located within the City limits.

Thus, the assessed trip length used in the proposed impact fees for the City of Port Orange is 19% of the 3.06-mile average trip length, or 0.58 miles. As shown on Table 13: Land Use Category Trip Length Ratios, the assessable trip length is allocated by percentage to each ITE land use category.

Downtown TCEA

The Downtown Transportation Concurrency Exception Area (TCEA) is not exempt from impact fees. In accordance with Policy 1.2.1 of the Comprehensive Plan, Capital Improvements Element (CIE), the "*City will continue to collect impact fees from development projects to pay for the provision of public facilities and services required by those projects*".

Cost Component

Recent comparable roadway projects in Volusia County constructed or programmed for construction in the next five (5) years by the County and the State, in conjunction with other information, were reviewed to develop a cost per lane-mile of capacity compared to the capacity of a lane-mile to determine the cost per vehicle-mile of travel.

ROADWAY COST

One of the key inputs into the road impact fee formula is the cost per lane-mile to construct new roadway capacity. While the most obvious component of roadway construction is the physical roadway itself, other elements are involved. All components add to the cost to the project. Other components include professional services (planning and design), actual construction costs, right-of-way (land) costs, environmental mitigation costs and utility relocation costs.

In a demand-driven impact fee system, roadway construction costs are entered into the formula as an average cost for providing new roadway capacity. Using this method, assuming there are no dramatic changes to the type of construction contemplated, it is not necessary to revisit impact fees each time that the capital improvement program changes.

Roadway costs were estimated from new roadway and roadway widening projects in the River to Sea Transportation Planning Organization (TPO) Transportation Improvement Program and the Volusia County Capital Improvement Plan, which provided design, right-of-way, and construction costs for projects with funds committed between FY 2021/22 – FY 2025/26. As the Port Orange impact fees can only be applied to capacity projects on local roadways, the projects analyzed were limited to roadways with no more than four (4) lanes.

Additionally, the FDOT Cost Per Mile Models for Long Range Estimating (LRE) and recently completed construction data from roadway projects in other Florida cities were used to assist in the verification of average costs. Road capacity projects listed in the City's Capital Improvement Program (CIP) were also reviewed.

Cost per Mile

Based on a review of the aforementioned capacity improvement projects, as shown in Table 14: Roadway Costs in TIP and CIP, a construction cost of $5.0 million per lane mile for city roads (curb & gutter) is utilized for the transportation impact fee calculation. This is consistent with the FDOT Cost Models and other city projects.

FDOT Models

The FDOT Cost Per Mile Models for Long Range Planning, shown in Table 15, further validate the estimate of construction costs for urban roadways. The average cost per mile is approximately $5.0 million.

Other City Local Roadway Construction Costs

Recent capacity improvements from other cities throughout Florida, listed in Table 16, were reviewed to increase the sample size and consider construction costs of urban road widening projects. The weighted average cost per lane mile for these projects is $4.7 million.

City of Port Orange Construction Costs

The City's current FY23-28 Capital Improvement Element (CIE) Program contains capacity improvement projects that include intersection improvements, adding turn lanes, road extensions, and widening of existing roadways. The description of each project often includes the length of the project in miles. When unavailable, a map survey was conducted to measure and estimate the proposed project length(s). For this analysis, only road widening and extension projects were included to estimate the lane cost per mile. Averaging only $1.5 million, the cost per lane mile is comparatively much lower than the other estimates. This may be due to the lower right-of-way expenditures associated with the city projects.

The capacity improvement projects from the CIE are shown in Table 17.

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Table 14: Roadway Costs in TIP and CIP

Road	Segment	Feature	Length (Miles)	Lanes Added	Lane Miles Added	Construction Cost	Cost per Lane Mile ($)	Source
SR 40	SR 15/US 17 to SR 11	2 Lanes to 4 Lanes	6.376	2	12.752	$60,431,767	$4,739,003	River to Sea TIP
SR 40	W of SR 11 to W of Cone Road	2 Lanes to 4 Lanes	7.640	2	15.280	$64,827,812	$4,242,658	River to Sea TIP
SR 15 (US 17)	DeLeon Springs to SR 40	2 Lanes to 4 Lanes	6.848	2	13.696	$83,987,940	$6,132,297	River to Sea TIP
SR15 (US17)	South of Spring St to Lake Winona Rd	2 Lanes to 4 Lanes	1.550	2	3.100	$32,607,028	$10,518,396	River to Sea TIP
Beresford Avenue	Blue Lake Avenue to MLK Jr Beltway	New 2 Lane	0.880	2	1.760	$3,709,305	$2,107,560	Volusia CIP
Blue Lake Extension	Blue Lake to SR 472	New 2 Lane	0.330	2	0.660	$3,862,721	$5,852,608	Volusia CIP
Orange Camp Road	Widening MLK Blvd to I-4	2 Lanes to 4 Lanes	1.510	2	3.020	$13,001,748	$4,305,215	Volusia CIP
Williamson Boulevard	Strickland Range to Hand Avenue	2 Lanes to 4 Lanes	1.120	2	2.240	$8,230,506	$3,674,333	Volusia CIP
			26.254		52.508	$33,832,353	$5,196,509	
						Weighted Average:	$5,154,621	

Table 15: FDOT Cost Per Mile Models

Description	Cost Per Mile
Add 2 Lanes to Existing 2 Lane Undivided Arterial (1 Lane Each Side), with 4' Bike Lanes	$4,884,813
Widen 2 Lane Urban Arterial to 4 Lane Divided with 22' Median, 4' Bike Lanes	$5,480,586
Add 2 Lanes to Existing 3 Lane Undivided Arterial (1 Lane Each Side with Center Turn Lane and 4' Bike Lanes	$5,038,671
Widen 4 Lane Urban Divided Arterial to 6 Lane Urban Divided with 22' Median and 4' Bike Lanes	$4,954,842
Average:	$5,089,728

Source: FDOT

Table 16: Other City Projects

City	Road	From	To	Feature	Length	Lanes Added	Lane Miles Added	Cost	Cost per Lane Mile ($)
Lakeland	Lakeland Park Drive	Carpenters Way	Interstate 4	New 2 Lane	0.379	2	0.758	$6,309,598	$8,328,669
Lakeland	North Wabash Avenue Extension	W. 10th Street	W. Bella Vista Street	New 2 Lane	0.850	2	1.700	$5,100,000	$3,000,000
Orlando	Narcoossee Road	Central Florida Greenway (SR.417)	Beachline Expressway (SR 528)	4 Lanes to 6 Lanes	3.770	2	7.540	$31,775,775	$4,214,294
Plant City	Sam Allen Road	Paul Buchman Highway (SR 39A)	Park Road	2 Lanes to 4 Lanes	2.000	2	4.000	$23,200,000	$5,800,000
Lakeland	West Pipkin Road	Medulla Road	S. Florida Avenue (SR 37)	2 Lanes to 4 Lanes	3.800	2	7.600	$45,462,576	$5,981,918
Jacksonville	Collins Road	Rampart Road	Old Middleburg Road	2 Lanes to 4 Lanes	3.380	2	6.760	$21,300,000	$3,150,888
				Totals:	14.179		28.358	Weighted Average:	$4,695,252

Table 17: Port Orange Capacity Improvement Projects

Project	Road	Description	Length	Lanes Added	Lane Miles Added	Cost	Cost per Lane Mile ($)
200905	Williamson Blvd. North of Pavilion	Project involves adding 2 lanes to the existing 2 lane Williamson Blvd. roadway from the north boundary of the Pavilion project north to Townwest Blvd., a 0.53-mile section.	0.53	2	1.06	$2,680,935	$2,529,184
200907	Coraci Blvd. Extension	Project involves construction of a 1/2 mile 2-lane divided roadway extending Coraci Blvd. 2600' from Forest Lakes subdivision (Carmody Lake Drive) to Sanctuary at Westport Apartment within the existing undeveloped right-of way. This roadway is indicated as a future collector road in the Comprehensive Plan.	0.50	2	1.00	$2,407,000	$2,407,000
201008	Yorktowne Blvd North Section	Project is proposed as either a 2-lane or 4-lane divided curb and gutter road designed to major collector street standards. This improvement is required to complete the Yorktowne Blvd. connection between Hidden Lakes Dr. and Willow Run Blvd.	0.64	2	1.29	$2,044,250	$1,587,397
201015	Willow Run Boulevard Widening	A 1/4-mile segment of Willow Run east of Williamson Boulevard to the proposed intersection of the Yorktowne Boulevard extension will need to be improved to accommodate future traffic flows diverted from Williamson Boulevard and future traffic on the new Yorktowne north extension. A signalized intersection, traffic circle, or other feasible improvements at the Willow Run/Yorktowne intersection will be considered as part of the design.	1.31	2	2.62	$1,325,000	$505,725
New 002	Madeline Ave Widening between Clyde Morris and Nova Rd	Project consists of widening the current vehicle travel lanes on Madeline Avenue between Clyde Morris and Nova Road. The proposed improvements are anticipated to be constructed within the existing right-of-way of Madeline Avenue; additional right-of-way is not anticipated to be requested for this project.	1.27	2	2.54	$1,360,000	$535,433
		Totals:	4.25		8.51	Average:	$1,512,948

VEHICLE MILES OF CAPACITY PER LANE MILE

A lane-mile of roadway is capable of carrying a set capacity of vehicles in one day. This is similar to the maximum service volume for that road on a mile basis. Capacity can vary depending on the road type (e.g., highway versus arterial) and location (e.g., urban versus rural). Most transportation impact fees are determined by calculating the amount of added capacity that would result by making all of the improvements in the capital improvements plan.

The average capacity per lane mile for each road project listed in Table 14: Roadway Costs in TIP and CIP was calculated using existing and proposed roadway capacities from Table 1 in the Florida Department of Transportation (FDOT) Quality / Level-of-Service Handbook, as shown in Appendix A.

Table 18: Capacity from Road Projects (Volusia County)

Road	Segment	Feature	Length (Miles)	Existing Capacity	Proposed Capacity	New Capacity Lane Miles
SR 40	SR 15/US 17 to SR 11	2 - 4 Lanes	6.376	17,700	39,800	140,910
SR 40	W of SR 11 to W of Cone Road	2 - 4 Lanes	7.640	17,700	39,800	168,844
SR 15 (US 17)	DeLeon Springs to SR 40	2 - 4 Lanes	6.848	17,700	39,800	151,341
SR15 (US17)	South of Spring St to Lake Winona Rd	2 - 4 Lanes	1.550	17,700	39,800	34,255
Beresford Avenue	Blue Lake Avenue to MLK Jr Beltway	New 2 Lane	0.880	0	15,600	13,728
Blue Lake Extension	Blue Lake to SR 472	New 2 Lane	0.330	0	15,600	5,148
Orange Camp Road	Widening MLK Blvd to I-4	2 - 4 Lanes	1.510	17,700	39,800	33,371
Williamson Boulevard	Strickland Range to Hand Avenue	2 - 4 Lanes	1.120	17,700	39,800	24,752
			26.25			572,348
	TOTALS:	**X2**	**52.51**			**572,348**

Dividing the new capacity lane miles of 572,348 by twice the length of the improvements, totaling 52.51 miles (to account for one lane in both directions), the average capacity per lane mile of construction is 10,900.

572,348 / 52.51 = 10,900 (rounded from 10,899.79)

A survey of recent transportation impact fees studies performed in Florida was conducted to consider the average Vehicle-Miles of Capacity (VMC) per lane mile, revealing an average added capacity to be about 10,000 vehicle miles. Table 19 shows the average capacity per lane calculations from previous studies.

Table 19: Average Vehicle-Miles of Capacity (VMC) Added per Lane Mile

Note	Source	VMC Added per Lane Mile
1	St. Lucie County, FL	9,600
2	Palm Beach County, FL	9,967
3	Volusia County, FL	10,100
4	Palm Beach County, FL	14,000
5	Indian River County, FL	8,600
6	Hernando County, FL	11,200
7	Orange County, FL	9,000
	Average:	10,352

Note 1: Benesch Road Impact Fee Study (St. Lucie County) – March 2022 – 9,600
Note 2: Benesch Impact Fee Update Study (Palm Beach County) – March 2022 – 9,967
Note 3: Benesch Impact Fee Update Study (Volusia County) – July 2022 – 10,100
Note 4: Benesch Impact Fee Update Study (Palm Beach County) – July 2022 – 14,000
Note 5: Tindale Oliver Impact Fee Study Update (Indian River County) – February 2020 – 8,600
Note 6: Tindale Oliver Roads Impact Fee Study (Hernando County) – May 2020 – 11,200
Note 7: Tindale Oliver Transportation Impact Fee Study (Orange County) – September 2020 – 9,000

The analysis of road projects from the TPO and Volusia County TIP, coupled with the review of previous studies in Florida, validate the average Vehicle Miles of Capacity (VMC) per lane mile from each (10,900 and 10,352) to be approximately 10,626.

To be conservative, 10,500 VMC added per lane mile will be used for this study.

COST PER VEHICLE MILE OF CAPACITY

The cost per VMC figure is used in the road impact fee calculation to determine the total cost per unit of development based on vehicle-miles of travel consumed. For each vehicle-mile of travel that is added to the city roadway system, approximately $476 of capacity is consumed. The average cost per additional VMC is shown in Table 20.

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Table 20: Average Cost per Vehicle-Mile of Capacity Added

Source	Cost per Lane Mile [1]	Average VMC Added per Lane Mile [2]	Cost per VMC [3]
Blend of Road Projects	$5,000,000	10,500	$476.19

[1] Source: Roadway Cost Section
[2] Source: Table 19 and Table 19
[3] VMC added per lane mile (Item 2) divided by cost per lane mile (Item 1)

NET COST PER VEHICLE MILE OF CAPACITY

When calculating the impact of new development on infrastructure costs, credit is given for revenue generated by new development that will be used to pay for capacity-related capital improvements. In Port Orange, capacity-expanding road improvements for local roads are funded almost exclusively with road impact fees, local option fuel taxes, and developer contributions (for which impact fee credits are provided).

Credit Component

CAPITAL IMPROVEMENT CREDIT

To avoid overcharging new development for the public facilities impact fees, a review of the capital funding program was completed. The purpose of this review was to determine any potential revenue credits generated by new development that are being used for expansion of capital facilities and land included in the inventory. It should be noted that the credit component does not include any capital renovation, maintenance, or operations expenses, as these types of expenditures cannot be funded with impact fee revenue.

An analysis was completed to determine the current transportation funding sources for the City of Port Orange based on the FY 2023 – 2028 City of Port Orange Capital Improvement Program (CIP). The City has an average of $3,391,124 per year programmed for roadway transportation improvements. The CIP contains numerous projects consisting of roadway widening, intersection improvements, and additional turning lanes. All but one of the projects are funded via the Transportation Impact Fee Fund and the Transportation Planning Organization (TPO) Grant funding. The CIP currently has 12 transportation projects.

A breakdown of transportation projects and funding sources is shown in Table 21.

Table 21: CIP Transportation Projects

Project Title	Project Type	Funding Source		
		Property Taxes	TPO Grant	Transportation Fund
Willow Run Blvd. Widening	Capacity		X	X
Willow Run Blvd. Sidewalk (South)	New Sidewalk		X	X
Madeline Ave. (East) and Bruner Rd. Trail/Sidewalks	New Sidewalk		X	X
Madeline Avenue (West) Sidewalk/Trail	New Sidewalk		X	X
Taylor Rd/Williamson Blvd. Intersection Improvements	Reconstruct / Ped Improve / Safety		X	X
Taylor Rd./Clyde Morris Blvd. Intersection Improvements	Capacity		X	X
Williamson Blvd. and Willow Run Blvd. Sidewalk	New Sidewalk		X	X
Yorktowne Boulevard Northbound & Southbound Turn Lanes	Capacity / Ped Improvements		X	X
Widening of Madeline Avenue Between Clyde Morris Blvd & Nova Road	Capacity		X	X
Spruce Creek Road Sidewalks Gaps and Curb Ramp Replacement	Pedestrian Improvements		X	X
Dunlawton and Yorktowne Turn Lanes Bundle	Capacity	X	X	
Sidewalk Gap Bundle	New Sidewalk		X	X

Gasoline Tax Equivalent Credit

The present value of the portion of non-impact fee funding generated by new development over a 25-year period that is expected to be expended on capacity expansion projects was credited against the cost of the system consumed by travel associated with new development. In order to provide a connection to the demand component, which is measured in terms of travel, the non-impact fee dollars were converted to a fuel tax equivalency.

Methodology

The amount of gas-tax-supported funding for capacity expanding road improvements that can be anticipated over the long-term is estimated based on recent City of Port Orange gas tax revenue history. Pursuant to the interlocal agreement entered into between the County and municipalities within the County representing a majority of the incorporated area population within the County, the proceeds of the taxes are divided and distributed by the State Department of Revenue to the County and eligible municipalities. The proportion distributed to the City of Port Orange is 5.017 percent.[1] Table 22 shows the actual revenues over the past five (5) years.

[1] Florida Department of Revenue, Office of Tax Research

Table 22: Local Option Gas Tax Distributions

Tax [1]	FY 2017-2018	FY 2018-2019	FY 2019-2020	FY 2020-2021	FY 2021-2022 [2]
5 Cent	$ 572,440	$ 566,641	$ 576,562	$ 566,787	$ 524,716
6 Cent	$ 786,856	$ 765,741	$ 776,303	$ 771,714	$ 731,399
Totals:	$ 1,341,296	$ 1,332,382	$ 1,352,865	**$ 1,338,501**	$ 1,256,115

[1] City of Port Orange, Finance Department
[2] For FY22: 10 months received; 2 months estimated

In addition to the amount distributed to the city, the amount of gallons sold is necessary for the credit computation. The gallons sold in Volusia County is derived from the Florida Department of Revenue, "Certificate of Taxable Gallons, Fiscal Year 2020-2021, and is subsequently extrapolated to determine the same for Port Orange. Data attributed to Fiscal Year 2020-2021 will be used for this study.

Table 23: Funding per Gallon

Entity		FY 2020-2021
Volusia County [1]		
	Total Funding	$ 14,861,036
1	Annual Gallons Sold	266,017,688
	Annual Funding per Gallon	$ 0.0558
City of Port Orange		
	Total Funding	**$ 1,338,501**
	Annual Gallons Sold [2]	24,000,000
	Annual Funding per Gallon	$ 0.0558

[1] Florida Department of Revenue, "Certificate of Taxable Gallons, Fiscal Year 2020-2021"
[2] Extrapolated

City

The City does not have a history of spending locally allocated gas tax revenues on capacity expansion projects in recent years. However, with anticipated continued growth and development, as well as the need for capacity improvements, a gas tax credit is given.

County

Based on a review of the Volusia County CIP, it was determined that the County has not programmed any funds to be spent on capacity expansion projects in the City of Port Orange. There are roadway and bridge projects but none providing capacity improvements. As such, no credit is given for gas tax revenues received by the County and spent in the city.

The other inputs to the Gas Tax Credit are:

- Average fuel efficiency,
- Effective days per year, and
- Net Present Value (NPV) of the annual funding per daily vehicle miles.

Fuel Efficiency

According to the U.S. Department of Transportation, Bureau of Transportation Statistics [1], the average U.S. light duty vehicle fuel efficiency in miles per gallon (mpg) is 22.9 mpg. The most recent data is for the year 2020.

Effective Days per Year

An effective 365 days per year of operation was assumed for all land uses in the proposed fee. However, this will not be the case for all land uses since some uses operate only on weekdays (e.g., office buildings) and/or only seasonally (e.g., schools). The use of 365 days per year, therefore, provides a conservative estimate, ensuring that gasoline taxes are adequately credited against the fee.

Net Present Value

The NPV variables are facility life and interest rate. The roadway facility life used in the analysis is 25 years, which represents the reasonable life of a roadway. The interest rate is the discount rate at which gasoline tax revenues might be bonded. It is used to compute the present value of the gasoline taxes generated by new development. At the time of this analysis, the national average interest rate on 20-year AAA municipal bonds and AA municipal bonds varies from 3.35 to 3.75 percent. [2] The discount rate of 3.5 percent is close to the average and was used in the calculation. Table 24 shows the calculations based on the previously mentioned assumptions.

Present Value

Present Value = calculation of the present value of a uniform series of cash flows, gas tax payments in this case, given an interest rate, "i," and a number of periods, "n;" for 3.50% interest and a 25-year facility life, the uniform series present worth factor is 16.13. The present value factor is the factor that is used to indicate the present value of cash to be received in the future and is based on the time value of money. This PV factor is a number that is always less than one and is calculated by one divided by one plus the rate of interest to the power, i.e., the number of periods over which payments are to be made. Solving for Uniform Series Present Worth (USPW) factor. Where; i = interest rate and n = number of periods.

$$\text{USPW} = \frac{(1+i)^n - 1}{i\,(1+i)^n} = \frac{(1+.037)^{25} - 1}{.037(1+.037)^{25}} = \frac{2.48-1}{0.037*2.48} = \frac{1.48}{0.09176} = 16.13$$

[1] https://www.bts.gov/content/average-fuel-efficiency-us-light-duty-vehicles

[2] fmsbonds.com/market-yields

Table 24: Credit per VMT

Total Annual Gas Tax Funding	$ 1,338,501
÷ Annual Gallons Sold	24,000,000
Annual Funding per Gallon	$ 0.0558
÷ Average Fuel Efficiency (mpg)	22.9
Funding per Daily Vehicle Mile	$ 0.0024
x Days per Year	365
Annual Funding per Daily Vehicle-Mile	$ 0.89
x Net Present Value Factor (25 Years)	$ 16.13
Gas Tax Funding Credit per VMT	$ 14.34

Assuming that road improvements in Port Orange continue to receive a similar amount of County local option gas tax revenues over the long term, new development will generate the present value equivalent of $14.34 in capacity funding per VMT over the next 25 years. This is the amount of credit that should be applied against the cost of accommodating the transportation demands of new development. The net cost per Vehicle Mile of Capacity (VMC) is $461.85, as shown in Table 25.

Table 25: Net Cost per Service Unit

Road Cost per VMT	$ 476.19
- Gas Tax Credit per VMT	$ (14.34)
Net Road Cost per VMT	$ 461.85

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CALCULATED TRANSPORTATION IMPACT FEE SCHEDULE

Detailed impact fee calculations for each land use are included in Appendix D, which includes the major land use categories and the impact fees for the individual land uses contained in each of the major categories. For each land use, Appendix D illustrates the following:

- Demand component variables (trip rate, trip length, and percent of new trips);
- Total impact fee cost;
- Annual gas tax credit;
- Present value of the gas tax credit; and
- Net transportation impact fee.
- Current City of Port Orange transportation impact fee
- Percent difference between the calculated impact fee and current adopted impact fee

It should be noted that the net impact fee shown in Appendix D is not necessarily a recommended fee, but instead represents the technically calculated impact fee per unit of land use that could be charged in the City of Port Orange.

In order to ensure comprehension of the Transportation Impact Fee calculation, a step-by-step sample calculation is presented. The following example is for the Single Family Residential (Detached) land use category (ITE Land Use Code 210), using information from the impact fee schedules included in Appendix D.

Step 1: VMT = Trip Rate x Trip Length x Percent New Trips

Trip Rate = 9.43 Trip Length = 0.58 miles Percent of New Trips = 100%	VMT = (9.43 x 0.58 x 100 %) = **5.47**

Step 2: Daily VMT per Land Use = VMT / 2

VMT = 5.47	Daily VMT = 5.47 / 2 = **2.73**

Step 3: Cost per VMT = Cost per lane mile / added capacity per lane mile

Total Cost per lane mile: $5,000,000 Added capacity per lane mile = 10,500	Cost per VMT = $5,000,000 / 10,500 = **$476.19**

Step 4: Total impact cost = Daily VMT per Land Use x Cost per VMT

Daily VMT for Single Family Residential= 2.73
Cost per VMT = $476.19

Total Impact Cost = 6.41 x $587.50= **$1,302.24**

Step 5: Credit per VMT= ($/gallon used for capital improvements / Fuel Efficiency) x Effective Days per year (365) x Present value of gas tax payments

$/Gallon used for capital improvements = $.0558
Fuel Efficiency = 22.90 mpg
Effective days per year = 365
Present Value of Gas Tax Payments= $16.13

Credit per VMT = (($.0558 / 22.90) x 365) x $16.13 = **$14.34**

Step 6: Gas Credit = Daily VMT per Land Use x Credit per VMT

Daily VMT for Single Family Residential = 2.73
Credit per VMT = $14.34

Gas Credit = (2.73 x $14.34) = **$39.22**

Step 7: Net Impact Fee = Total Impact cost – Gas Credit

Total Impact Cost for Single Family Residential = $1,302.24
Gas Credit for Single Family Residential = $39.22

Net Impact Fee = ($1,302.24 - $39.22) = **$1,263.02 (at 100%)**

Rounded = $1,263

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Transportation Impact Fee Comparison

As part of the effort in developing the City of Port Orange transportation impact fee program, a comparison of calculated fees to road/transportation impact fee schedules adopted in other jurisdictions was completed, as shown in Table 26. Note that differences in fee levels for a given land use can be caused by several factors, including the year of the technical study, adoption percentage, study methodology including variation in costs, credits, and travel demand, land use categories included in the fee schedule, etc.

This table includes ten (10) land uses with single family detached as the residential land use, and nine (9) non-residential land uses. The impact fees for the peer cities are then summarized, leading to the highest, lowest, and average for the ten land use categories. The fees associated with Orange City are, in many cases, significantly lower than the rest and were subsequently eliminated from the averaging to reduce potential skewing of the data. The City of New Smyrna Beach has the lowest fees in all land use categories, compared to the other cities, which will slightly skew the analysis.

Figure 7 and Figure 8 provide charts to visualize the position of Port Orange in comparison to the peer cities.

Although there is some variation, it is not recommended that Port Orange's calculated fees be modified overall to match the averages derived from the city samples. The updated transportation impact fees for the various land use categories are shown in Table 27.

The detailed fee schedule that includes the calculations shown above for all land uses is presented in Appendix D. It should be noted that in all cases where the proposed impact fee is less than the current fee, the Trip Generation Rate (TGR) applied in the previous study was for some reason significantly higher than the ITE TGR.

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Table 26: Transportation Impact Fee Comparison

Land Use	Unit of Measure	Port Orange (Existing)	Port Orange (Proposed)	Palm Coast	Deltona	Ocoee	New Smyrna Beach	Orange City	Apopka
Fee Schedule Date		2005	2023	2022	2017	2022	2019	2019	2022
Assessed Portion of Calculated Fee		100%	100%	100%	100%	100%	100%	100%	100%
Residential:									
Single Family Detached	Du	$ 902	$ 1,263	$ 3,139	$ 1,044	$ 3,944	$ 1,143	$ 622	$ 3,101
Non-Residential:									
General Light Industrial	1,000 sf	$ 357	$ 600	$ 1,773	$ 1,308	$ 2,497	$ 833	$ 340	$ 2,633
Warehousing	1,000 sf	$ 451	$ 211	$ 1,773	$ 449	$ 1,776	$ 597	$ 260	$ 1,877
Hotel	1,000 sf	$ 665	$ 710	$ 1,852	$ 1,029	$ 2,668	$ 830	$ 362	$ 3,212
Day Care Center	1,000 sf	$ 1,844	$ 4,249	$ 5,119	$ 2,416	$ 8,324	$ 2,335	$ 1,220	$ 6,045
Place of Worship	1,000 sf	$ 526	$ 1,090	$ 2,268	$ 698	$ 3,230	$ 667	$ 340	$ 2,969
General Office	1,000 sf	$ 1,646	$ 1,502	$ 3,798	$ 1,638	$ 4,753	$ 2,085	$ 1,210	$ 4,995
Shopping Center (>150ksf)	1,000 sf	$ 2,217	$ 2,872	$ 6,936	$ 2,075	$ 4,847	$ 1,380	$ 880	$ 10,686
Bank (Drive-through)	1,000 sf	$ 5,925	$ 4,368	$ 12,289	$ 7,005	$ 9,608	$ 7,503	$ 8,710	$ 20,225
Fast Food w/Drive Thru	1,000 sf	$ 9,939	$ 11,173	$ 23,042	$ 41,461	$ 23,156	$ 12,585	$ 6,450	$ 24,423

[1] Represents that portion of the maximum calculated fee for each city/county that is actually charged. Does not account for moratoriums/suspension.
[2] du = dwelling units
[3] Source: Appendix D
[4] Source: City of Palm Coast, FL Summary of Application and Impact Fees (December 21, 2021) (Note: Fast Food w/Drive Thru unit is Lanes)
[5] Source: City of Deltona, Planning and Development Services
[6] Source: City of Ocoee, Florida – Impact Fee Schedule
[7] Source: City of New Smyrna Beach, Florida – Impact Fees
[8] Source: City of Orange City, Development Services Department
[9] Source: City of Apopka, Community Development Department, Engineering Division

Figure 7: Transportation Impact Fee Comparison per Single Family Residential Unit

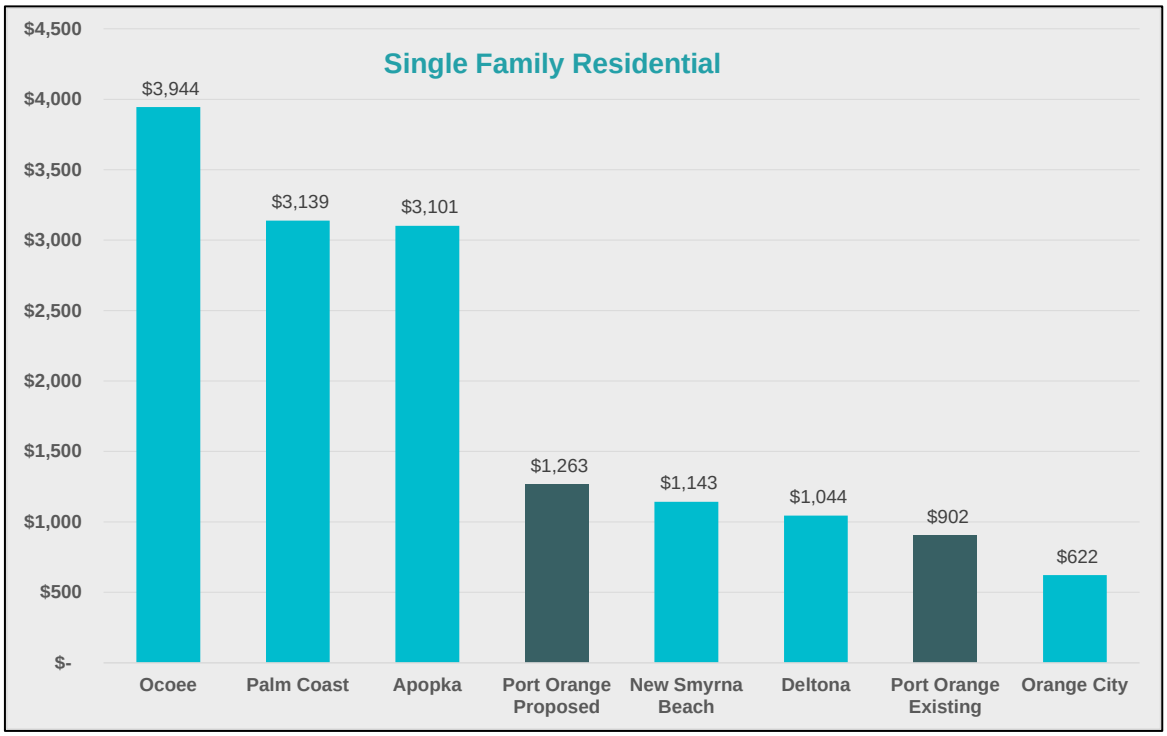
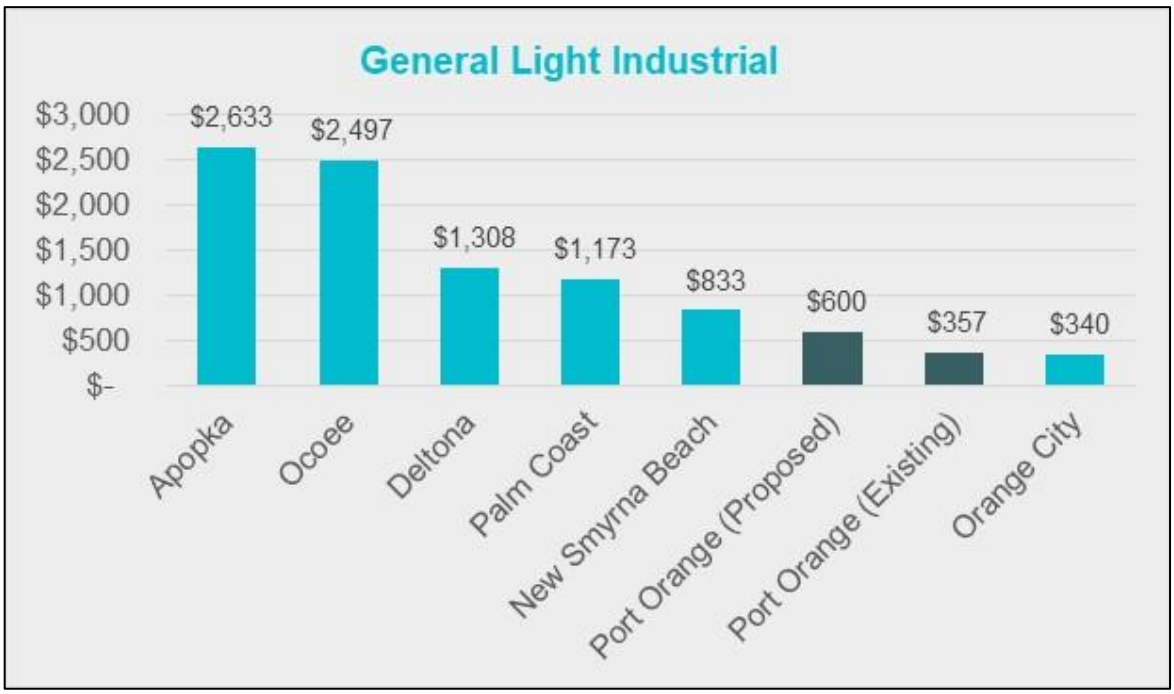


Figure 8: Transportation Impact Fee Comparisons for Non-Residential



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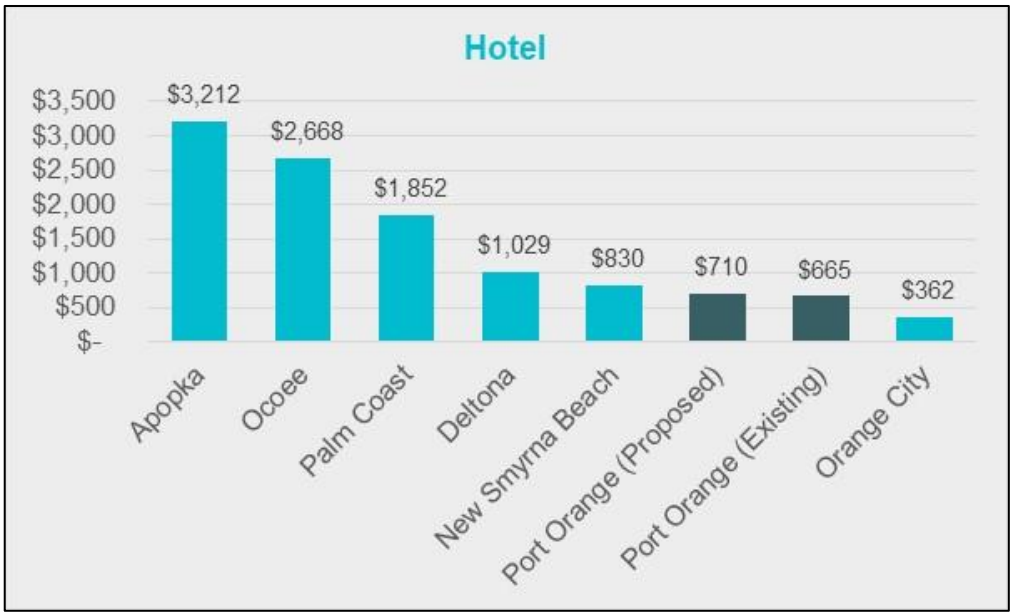
$1,800
$1,600
$1,400
$1,200
$1,000
$800
$600
$400
$200
$-
$1,877
$1,776
$1,773
$597
$451
$449
$260
$211
Apopka
Ocoee
Palm Coast
New Smyrna Beach
Port Orange (Existing)
Deltona
Orange City
Port Orange (Proposed)


Hotel
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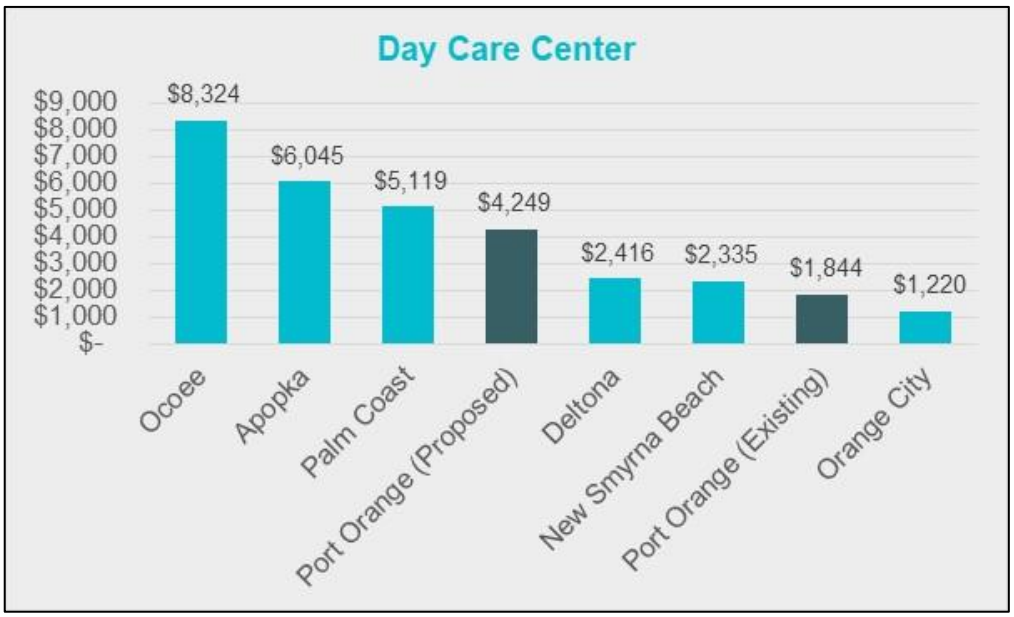
$3,000
$2,500
$2,000
$1,500
$1,000
$500
$-
$3,212
$2,668
$1,852
$1,029
$830
$710
$665
$362
Apopka
Ocoee
Palm Coast
Deltona
New Smyrna Beach
Port Orange (Proposed)
Port Orange (Existing)
Orange City


Day Care Center
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$8,000
$7,000
$6,000
$5,000
$4,000
$3,000
$2,000
$1,000
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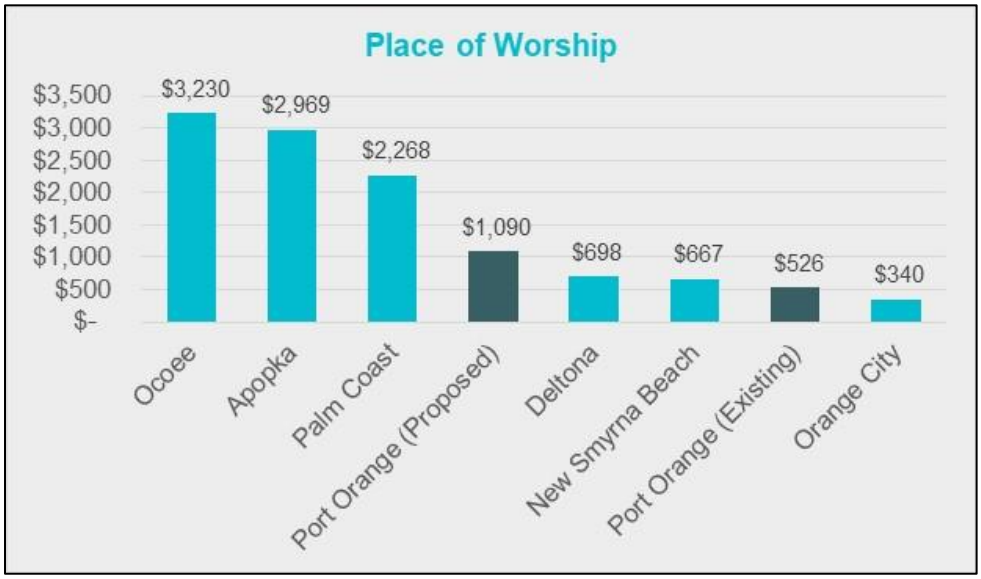
$6,045
$5,119
$4,249
$2,416
$2,335
$1,844
$1,220
Ocoee
Apopka
Palm Coast
Port Orange (Proposed)
Deltona
New Smyrna Beach
Port Orange (Existing)
Orange City


Place of Worship
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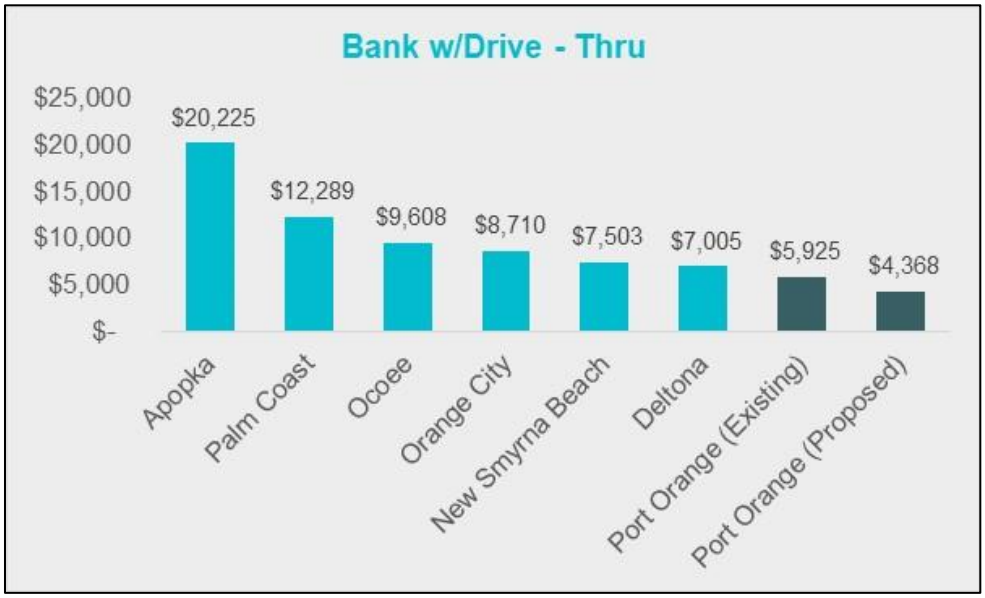
$3,000
$2,500
$2,000
$1,500
$1,000
$500
$-
$3,230
$2,969
$2,268
$1,090
$698
$667
$526
$340
Ocoee
Apopka
Palm Coast
Port Orange (Proposed)
Deltona
New Smyrna Beach
Port Orange (Existing)
Orange City

General Office
$6,000
$5,000
$4,000
$3,000
$2,000
$1,000
$-
$4,995
$4,573
$3,798
$2,085
$1,646
$1,638
$1,502
$1,210
Apopka
Ocoee
Palm Coast
New Smyrna Beach
Port Orange (Existing)
Deltona
Port Orange (Proposed)
Orange City

Shopping Center
$12,000
$10,000
$8,000
$6,000
$4,000
$2,000
$-
$10,686
$6,936
$4,847
$2,872
$2,217
$2,075
$1,380
$880
Apopka
Palm Coast
Ocoee
Port Orange (Proposed)
Port Orange (Existing)
Deltona
New Smyrna Beach
Orange City


Bank w/Drive - Thru
$25,000
$20,000
$15,000
$10,000
$5,000
$-
$20,225
$12,289
$9,608
$8,710
$7,503
$7,005
$5,925
$4,368
Apopka
Palm Coast
Ocoee
Orange City
New Smyrna Beach
Deltona
Port Orange (Existing)
Port Orange (Proposed)

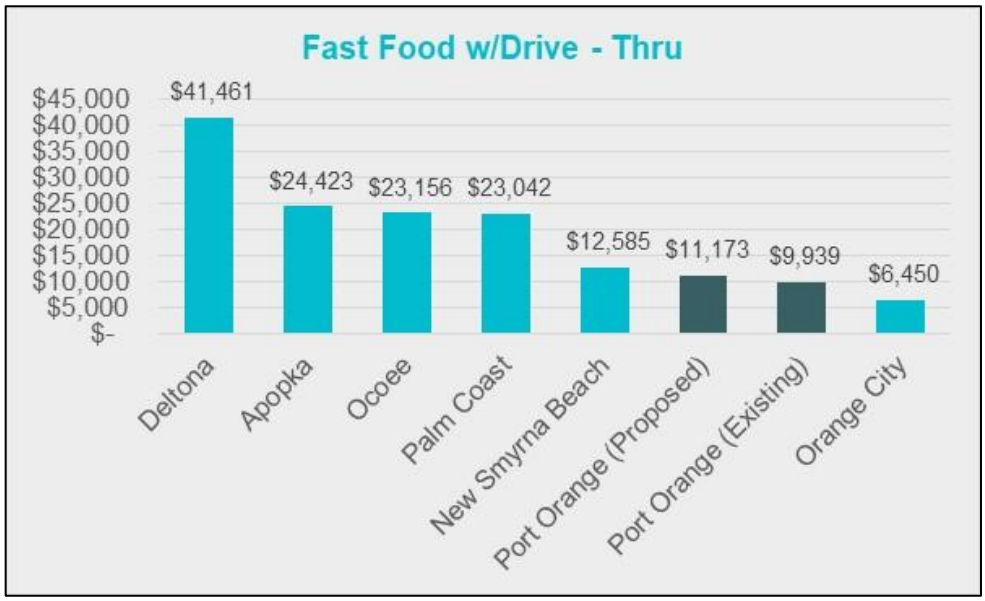

Fast Food w/Drive - Thru
$45,000
$40,000
$35,000
$30,000
$25,000
$20,000
$15,000
$10,000
$5,000
$-
$41,461
$24,423
$23,156
$23,042
$12,585
$11,173
$9,939
$6,450
Deltona
Apopka
Ocoee
Palm Coast
New Smyrna Beach
Port Orange (Proposed)
Port Orange (Existing)
Orange City

Table 27: Transportation Impact Fee

Land Use	ITE LUC	Unit of Measure	Year 2023	Year 2024	Year 2025	Year 2026 and Onward
INDUSTRIAL						
General Light Industrial	110	1,000 SF	$ 402	$ 446	$ 491	$ 536
Industrial Park	130	1,000 SF	$ 415	$ 415	$ 415	$ 415
Manufacturing	140	1,000 SF	$ 406	$ 451	$ 496	$ 542
Warehousing	150	1,000 SF	$ 211	$ 211	$ 211	$ 211
Mini-Warehouse	151	1,000 SF	$ 165	$ 179	$ 179	$ 179
RESIDENTIAL						
Single-Family Detached Housing	210	DU	$ 992	$ 1,083	$ 1,173	$ 1,263
Multifamily Housing (Low-Rise)	220	DU	$ 724	$ 784	$ 843	$ 903
Multifamily Housing (Mid-Rise)	221	DU	$ 608	$ 608	$ 608	$ 608
Multifamily Housing (High-Rise)	222	DU	$ 608	$ 608	$ 608	$ 608
Low-Rise Residential with Ground-Floor Commercial	230	GFA (1-25K)	$ 452	$ 461	$ 461	$ 461
Mid-Rise Residential with Ground-Floor Commercial	231	GFA (1-25K)	$ 461	$ 461	$ 461	$ 461
High-Rise Residential with Ground-Floor Commercial	232	GFA (1-25K)	$ 461	$ 461	$ 461	$ 461
Mobile Home Park	240	DU	$ 393	$ 436	$ 480	$ 524
LODGING						
Hotel	310	Rooms	$ 687	$ 710	$ 710	$ 710
Motel	320	Rooms	$ 344	$ 344	$ 344	$ 344
RECREATIONAL						
Campground/Recreational Vehicle Park	416	Sites	$ 328	$ 362	$ 362	$ 362
Marina	420	Berths	$ 323	$ 323	$ 323	$ 323
Movie Theater	445	Screens	$ 4,694	$ 5,215	$ 5,737	$ 6,258
Health/Fitness Club	492	1,000 SF	$ 4,344	$ 4,344	$ 4,344	$ 4,344
INSTITUTIONAL						
Place of Worship	560	1,000 SF	$ 592	$ 658	$ 723	$ 789
Day Care Center	565	1,000 SF	$ 2,075	$ 2,305	$ 2,536	$ 2,766
MEDICAL						
Hospital	610	1,000 SF	$ 1,180	$ 1,268	$ 1,355	$ 1,442
Nursing Home	620	Beds	$ 114	$ 126	$ 139	$ 152
Clinic	630	1,000 SF	$ 5,036	$ 5,036	$ 5,036	$ 5,036
Animal Hospital/Veterinary Clinic	640	1,000 SF	$ 989	$ 1,099	$ 1,209	$ 1,319
OFFICE						
General Office Building	710	1,000 SF	$ 1,502	$ 1,502	$ 1,502	$ 1,502
Small Office Building	712	1,000 SF	$ 1,987	$ 1,987	$ 1,987	$ 1,987
Corporate Headquarters Building	714	1,000 SF	$ 587	$ 653	$ 718	$ 783
Medical-Dental Office Building	720	1,000 SF	$ 2,895	$ 3,216	$ 3,538	$ 3,860
Office Park	750	1,000 SF	$ 1,513	$ 1,529	$ 1,529	$ 1,529
Research Center	760	1,000 SF	$ 717	$ 796	$ 876	$ 956
Business Park	770	1,000 SF	$ 1,530	$ 1,662	$ 1,662	$ 1,662

Land Use	ITE LUC	Unit of Measure	Year 2023	Year 2024	Year 2025	Year 2026 and Onward
RETAIL						
Building Materials and Lumber Store	812	1,000 SF	$ 1,632	$ 1,632	$ 1,632	$ 1,632
Hardware/Paint Store	816	1,000 SF	$ 772	$ 772	$ 772	$ 772
Nursery (Garden Center)	817	1,000 SF	$ 6,517	$ 6,517	$ 6,517	$ 6,517
Shopping Center (>150k)	820	1,000 SF	$ 2,381	$ 2,544	$ 2,708	$ 2,872
Shopping Plaza (40-150k)	821	1,000 SF	$ 7,332	$ 7,332	$ 7,332	$ 7,332
Strip Retail Plaza (<40k)	822	1,000 SF	$ 4,225	$ 4,225	$ 4,225	$ 4,225
Automobile Sales (New)	840	1,000 SF	$ 2,228	$ 2,421	$ 2,615	$ 2,808
Automobile Sales (Used)	841	1,000 SF	$ 2,208	$ 2,382	$ 2,556	$ 2,729
Tire Superstore	849	1,000 SF	$ 1,099	$ 1,221	$ 1,343	$ 1,466
Supermarket	850	1,000 SF	$ 2,421	$ 2,690	$ 2,959	$ 3,228
Convenience Store (w/o gas station)	851	1,000 SF	$ 7,418	$ 8,049	$ 8,681	$ 9,312
Home Improvement Superstore	862	1,000 SF	$ 1,433	$ 1,593	$ 1,752	$ 1,911
Pharmacy/Drugstore without Drive-Through Window	880	1,000 SF	$ 3,774	$ 3,774	$ 3,774	$ 3,774
Pharmacy/Drugstore with Drive-Through Window	881	1,000 SF	$ 1,568	$ 1,743	$ 1,917	$ 2,091
Marijuana Dispensary	882	1,000 SF	$ 8,737	$ 8,737	$ 8,737	$ 8,737
Furniture Store	890	1,000 SF	$ 280	$ 311	$ 342	$ 374
Liquor Store	899	1,000 SF	$ 6,516	$ 6,516	$ 6,516	$ 6,516
SERVICES						
Walk-in Bank	911	1,000 SF	$ 3,417	$ 3,796	$ 4,176	$ 4,556
Drive-in Bank	912	1,000 SF	$ 4,368	$ 4,368	$ 4,368	$ 4,368
Fine Dining Restaurant	931	1,000 SF	$ 3,869	$ 4,170	$ 4,470	$ 4,770
High-Turnover (Sit-Down) Restaurant	932	1,000 SF	$ 5,663	$ 6,209	$ 6,209	$ 6,209
Fast-Food Restaurant without Drive-Through Window	933	1,000 SF	$ 10,864	$ 11,789	$ 12,713	$ 13,638
Fast-Food Restaurant with Drive-Through Window	934	1,000 SF	$ 10,556	$ 11,173	$ 11,173	$ 11,173
Fast-Food Restaurant with Drive-Through Window and No Indoor Seating	935	1,000 SF	$ 16,829	$ 16,829	$ 16,829	$ 16,829
Coffee/Donut Shop without Drive-Through Window	936	1,000 SF	$ 3,245	$ 3,245	$ 3,245	$ 3,245
Coffee/Donut Shop with Drive-Through Window	937	1,000 SF	$ 2,834	$ 2,834	$ 2,834	$ 2,834
Coffee/Donut Shop with Drive-Through Window and No Indoor Seating	938	Lanes	$ 951	$ 951	$ 951	$ 951
Quick Lubrication Vehicle Shop	941	Positions	$ 1,845	$ 2,050	$ 2,255	$ 2,460
Gasoline/Service Station	944	Positions	$ 4,953	$ 4,953	$ 4,953	$ 4,953
Convenience Store/Gas Station	945	Positions	$ 5,998	$ 6,196	$ 6,196	$ 6,196
Self-Service Car Wash	947	Wash Stalls	$ 3,526	$ 3,847	$ 3,847	$ 3,847
Automated Car Wash	948	1,000 SF	$ 12,487	$ 12,487	$ 12,487	$ 12,487
Brewery Tap Room	971	1,000 SF	$ 4,787	$ 4,787	$ 4,787	$ 4,787
Drinking Place	975	1,000 SF	$ 7,033	$ 7,627	$ 8,220	$ 8,814

APPENDIX A:

FDOT Q/LOS TABLE 1

TABLE 1

Generalized Annual Average Daily Volumes for Florida's Urbanized Areas

January 2020

INTERRUPTED FLOW FACILITIES

STATE SIGNALIZED ARTERIALS

Class I (40 mph or higher posted speed limit)

Lanes	Median	B	C	D	E
2	Undivided	*	16,800	17,700	**
4	Divided	*	37,900	39,800	**
6	Divided	*	58,400	59,900	**
8	Divided	*	78,800	80,100	**

Class II (35 mph or slower posted speed limit)

Lanes	Median	B	C	D	E
2	Undivided	*	7,300	14,800	15,600
4	Divided	*	14,500	32,400	33,800
6	Divided	*	23,300	50,000	50,900
8	Divided	*	32,000	67,300	68,100

Non-State Signalized Roadway Adjustments

(Alter corresponding state volumes by the indicated percent.)

Non-State Signalized Roadways - 10%

Median & Turn Lane Adjustments

Lanes	Median	Exclusive Left Lanes	Exclusive Right Lanes	Adjustment Factors
2	Divided	Yes	No	+5%
2	Undivided	No	No	-20%
Multi	Undivided	Yes	No	-5%
Multi	Undivided	No	No	-25%
–	–	–	Yes	+5%

One-Way Facility Adjustment

Multiply the corresponding two-directional volumes in this table by 0.6

BICYCLE MODE[2]

(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)

Paved Shoulder/Bicycle Lane Coverage	B	C	D	E
0-49%	*	2,900	7,600	19,700
50-84%	2,100	6,700	19,700	>19,700
85-100%	9,300	19,700	>19,700	**

PEDESTRIAN MODE[2]

(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)

Sidewalk Coverage	B	C	D	E
0-49%	*	*	2,800	9,500
50-84%	*	1,600	8,700	15,800
85-100%	3,800	10,700	17,400	>19,700

BUS MODE (Scheduled Fixed Route)[3]

(Buses in peak hour in peak direction)

Sidewalk Coverage	B	C	D	E
0-84%	> 5	≥ 4	≥ 3	≥ 2
85-100%	> 4	≥ 3	≥ 2	≥ 1

UNINTERRUPTED FLOW FACILITIES

FREEWAYS

Core Urbanized

Lanes	B	C	D	E
4	47,600	66,400	83,200	87,300
6	70,100	97,800	123,600	131,200
8	92,200	128,900	164,200	174,700
10	115,300	158,900	203,600	218,600
12	136,500	192,400	246,200	272,900

Urbanized

Lanes	B	C	D	E
4	45,900	62,700	75,600	85,400
6	68,900	93,900	113,600	128,100
8	91,900	125,200	151,300	170,900
10	115,000	156,800	189,300	213,600

Freeway Adjustments

Auxiliary Lanes Present in Both Directions	Ramp Metering
+ 20,000	+ 5%

UNINTERRUPTED FLOW HIGHWAYS

Lanes	Median	B	C	D	E
2	Undivided	11,700	18,000	24,200	32,600
4	Divided	36,300	52,600	66,200	75,300
6	Divided	54,600	78,800	99,400	113,100

Uninterrupted Flow Highway Adjustments

Lanes	Median	Exclusive left lanes	Adjustment factors
2	Divided	Yes	+5%
Multi	Undivided	Yes	-5%
Multi	Undivided	No	-25%

[1] Values shown are presented as two-way annual average daily volumes for levels of service and are for the automobile/truck modes unless specifically stated. This table does not constitute a standard and should be used only for general planning applications. The computer models from which this table is derived should be used for more specific planning applications. The table and deriving computer models should not be used for corridor or intersection design, where more refined techniques exist. Calculations are based on planning applications of the HCM and the Transit Capacity and Quality of Service Manual.

[2] Level of service for the bicycle and pedestrian modes in this table is based on number of vehicles, not number of bicyclists or pedestrians using the facility.

[3] Buses per hour shown are only for the peak hour in the single direction of the higher traffic flow.

* Cannot be achieved using table input value defaults.

** Not applicable for that level of service letter grade. For the automobile mode, volumes greater than level of service D become F because intersection capacities have been reached. For the bicycle mode, the level of service letter grade (including F) is not achievable because there is no maximum vehicle volume threshold using table input value defaults.

Source:
Florida Department of Transportation
Systems Implementation Office
https://www.fdot.gov/planning/systems/

APPENDIX B:

LAND USE DEFINITIONS

Appendix B: Land Use Definitions

Residential

Single-Family Detached - Any single-family detached home on an individual lot is included in this category. A typical example of this land use is a home in a suburban subdivision. Also included are duplex residential units and other residential land uses not specified above.

Multi-Family - This land use includes both low-rise ("walk-up" dwellings) and high-rise multifamily apartments. An apartment is defined as a dwelling unit that is located within the same building with three or more dwelling units. Also included in this land use are residential condominiums, townhomes, triplex and quadplex units. Residential condominiums and townhomes are defined as single-family units that have at least one other single-family unit within the same building structure.

Independent Senior Living Facility - Retirement communities - restricted to adults or senior citizens - contain residential units like apartments or condominiums and are usually self-contained villages. They may also contain special services such as medical facilities, dining facilities, and some limited supporting retail facilities.

Office (Service)

General Office Building - A general office building houses one or more tenants and is the location where affairs of a business, commercial or industrial organization, and professional activity are conducted. The building or buildings may be limited to one tenant or contain a mixture of tenants including professional services, insurance companies, investment brokers, company headquarters, and services for the tenants such as a bank or savings and loan, a restaurant or cafeteria, and several retail facilities. Also included in this category are office parks, and other office uses not specified above.

Medical Office Building – A building that provides diagnoses and outpatient care on a routine basis but is unable to provide prolonged in-house medical and surgical care. One or more private physicians or dentists generally operate this type of facility.

Commercial/Retail

Retail/Shopping Center – This includes a variety of land uses that include shopping centers, home improvement stores, hardware stores selling a complete assortment of food, household goods and materials, apparel, servicing items. A shopping center is an integrated group of commercial establishments that is planned, developed, owned, and managed as a unit. It is related to its market area in terms of size, location, and type of store. Shopping centers provide on-site parking facilities. Some centers may include non-merchandising uses such as small office professional services, post offices, banks, health clubs, video rentals, and recreational facilities such as ice-skating rinks or video arcades.

Restaurant - This land use consists of sit-down eating establishments. Quality and high-turnover (sit-down) restaurants are included in this category. Quality restaurants usually have a turnover rate of at least one hour or longer. The turnover rate for a high-turnover (sit-down) restaurant is usually less than one hour.

Fast Food Restaurant - This category includes fast food restaurants with or without drive-through windows, such as McDonalds, Burger King, Dunkin Donuts, and Taco Bell. Some establishments may include an indoor or outdoor playground.

Convenience Store/Gas Station - Any convenience market that sells convenience foods, newspapers, magazines, and often, beer and wine and may have gasoline pumps. Gas stations generally are located at intersections or freeway interchanges and may include facilities for servicing, repairing, fueling motor vehicles and may have convenience stores. Convenience stores/gas stations that have a fast-food restaurant contained within should be calculated on a separate basis based on the appropriate independent variable.

Grocery/Super Market – A free-standing retail store selling a complete assortment of food, food preparation, and wrapping materials and household cleaning items. Supermarkets may also contain the following products and services: ATMs, automobile supplies, bakeries, books and magazines, floral arrangements, photo center, video rental and pharmacy.

Discount Club – A discount club is a discount store or warehouse where shoppers pay a membership fee in order to take advantage of discounted prices on a wide variety of items such as food, clothing, tires, and appliances; many items are sold in large quantities or bulk.

Bank - This land use includes walk-in and drive-in banks. Walk-in banks are generally freestanding buildings with their own parking lots. These banks do not have drive-in windows. Drive-in banks provide banking facilities for the motorist while in a vehicle; many also serve patrons who walk into the building. Savings and loan companies should also be included in this category.

Pharmacy/Drugstore with Drive-Through – Pharmacies/drugstores are retail facilities that primarily sell prescription and non-prescription drugs. These facilities may also sell cosmetics, toiletries, medications, stationery, personal care products, limited food products and general merchandise. These facilities may or may-not contain drive-through windows.

Movie Theater - This land use consists of a movie or live theater and contains audience seating, single or multiple auditoriums, lobby, offices, and refreshment stands.

Furniture and Appliance Sales - A store specializing in the sale of furniture, household appliances and goods and often, carpeting.

Hotel/Motel – A place of lodging that provides sleeping accommodations, small restaurants, lounges, and meeting spaces. Some hotels or motels may provide banquet rooms or other retail and service shops. Also included in this category and extended stay hotels and business hotels.
Quick Lube Shop – A quick lubrication vehicle shop is a business where the primary activity is to perform oil change services for vehicles. Other ancillary services provided may include preventative maintenance, such as fluid and filter changes. Automobile repair service is generally not provided.

Car Wash – Facilities that allow for the cleaning of vehicles by providing stalls to park and wash the vehicles. Automated facilities may also be provided. Manual cleaning and car detailing may also take place at these facilities.

Mini-Warehouse/ Self-Storage Facilities - A self-serve storage unit or vault that is rented for the storage of goods. Each unit is physically separated from other units and access is usually provided through an overhead door or other common access point.

Golf Course – Public or privately owned golf course facilities. Some sites may have a golf driving range, pro-shop or clubhouse, restaurant and lounge, and banquet facilities.

Golf Driving Range – Outdoor facilities containing driving tees for golfers to practice. These facilities may also provide individual or small group lessons. Some may have pro-shop and/or small refreshment facilities.

Health/Fitness Club – Health and fitness clubs are privately owned facilities that may include weightlifting and gymnastics equipment, swimming pools, whirlpools, saunas, racquetball and handball courts, exercise classes and locker rooms.

Industrial (Basic)

General Industrial – General industrial includes a variety of land uses such as light industrial, manufacturing, salvage, facilities for preparation/assembly and warehouse/distribution of goods. Other uses include materials testing laboratories, high-tech facilities and assemblers of technical equipment. Most facilities are free standing and devoted to a single use. Also included in this category are any other industrial uses not specified above.

Industrial Park – Industrial parks contain a number of industrial or related facilities. They are characterized by a mix of light manufacturing, high-tech assembly, service, and minimal warehousing. Many parks contain highly diversified facilities-some with a large number of small businesses and others with one or two dominant industries.

Manufacturing – Facilities where the primary activity is the conversion or fabrication of raw materials to finished products. In addition to production of goods, manufacturing facilities may also have ancillary office, warehouse and associated functions.

Warehousing – These facilities are primarily devoted to the storage of materials. These facilities differ from mini warehouse in that they are generally not self-service in nature.

Institutional

Private School - Private schools serve students between the kindergarten and middle school or high school levels. Private schools are usually centrally located in residential communities in order to facilitate student access and have no student drivers.

Community College - Community college provides two and four-year advanced degrees. Vocational and technical schools are other uses that may fall under this category.

Day Care Center - A day care center is a facility where care for pre-school age children is provided, normally during the daytime hours. Day care facilities generally include classrooms, offices, eating areas, and playgrounds. Some centers also provide after-school care for older children.

Hospital - A hospital is any institution where medical or surgical care is given to non-ambulatory and ambulatory patients, and overnight accommodations are provided.

Nursing Home - A nursing home is any facility whose primary purpose is to care for persons who are unable to care for themselves. The term applies to rest homes, chronic care, and convalescent homes.

Religious Facilities – Churches, synagogues or houses of worship that provide public worship services, and generally house an assembly hall or sanctuary, meeting rooms, classrooms, and occasionally dining, catering, or party facilities.

Activity Centers – A recreational center or private club such as a YMCA that may offer classes and clubs for adults and children; a day care or a nursery school, meeting rooms, swimming pools and whirlpools; saunas, tennis, racquetball and handball courts, exercise classes, weightlifting equipment and locker rooms. Some may offer a small restaurant or snack bar within.

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APPENDIX C:

FLORIDA STUDIES

Appendix C: Florida Studies Trip Characteristics Database

The Florida Studies Trip Characteristics Database includes over 200 studies on 40 different residential and non-residential land uses collected over the last 25 years. Data from these studies include trip generation, trip length, and percent new trips for each land use. This information has been used in the development of impact fees and the creation of land use plan category trip characteristics for communities throughout Florida and the U.S.

Originally developed by Tindale Oliver and Associates, the historical database estimates trip generation rates for all land uses in a roadway impact fee schedule using data from studies in the Florida Studies Database and the Institute of Transportation Engineers' (ITE) Trip Generation reference report (11th edition). In those cases when both ITE Trip Generation reference report (11th edition) and Florida Studies trip generation rate (TGR) data are available for a particular land use, the data is typically blended to increase the sample size and provide a more valid estimate of the average number of trips generated per unit of development. If no Florida Studies data is available, only TGR data from the ITE reference report is used in the fee calculation. Similarly, when using the current TGR, the database is also used as a means of estimating percent new trips.

The trip generation rate for each respective land use is calculated using machine counts that record daily traffic into and out of the site studied. The traffic count hoses are set at entrances to residential subdivisions for the residential land uses and at all access points for non-residential land uses.

The trip length information is obtained through origin-destination surveys that ask respondents where they came from prior to arriving at the site and where they intended to go after leaving the site. The results of these surveys were used to estimate average trip length by land use.

The percent new trip variable is based on assigning each trip collected through the origin-destination survey process a trip type (primary, secondary, diverted, and captured). The percent new trip variable is then calculated as 1 minus the percentage of trips that are captured.

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Hotel (ITE LUC 310)										
Location	Size (Rooms)	Date	Total # Interviews	# Trip Length Interviews	Trip Gen Rate	Time Period	Trip Length	Percent New Trips	VMT	Source
Pinellas Co, FL	174	Aug-89	134	106	12.50	7-11a/3-7p	6.30	79.0	62.21	Tindale-Oliver & Associates
Pinellas Co, FL	114	Oct-89	30	14	7.30	12-7p	6.20	47.0	21.27	Tindale-Oliver & Associates
Orange Co, FL	123	1997	-	-	6.32	-	-	-	-	Orange County
Orange Co, FL	120	1997	-	-	5.27	-	-	-	-	Orange County
Orange Co, FL	146	1997	-	-	7.61	-	-	-	-	Orange County
Orange Co, FL	252	1997	-	-	5.63	-	-	-	-	Orange County
Orange Co, FL	172	1997	-	-	6.36	-	-	-	-	Orange County
Orange Co, FL	170	1997			6.06					Orange County
Orange Co, FL	128	1997			6.10					Orange County
Orange Co, FL	200	1997			4.56					Orange County
Orange Co, FL	112	1998			2.78					Orange County
Orange Co, FL	130	1998			9.12					Orange County
Orange Co, FL	106	1998			7.34					Orange County
Orange Co, FL	98	1998			7.32					Orange County
Orange Co, FL	120	1998			5.57					Orange County
Orange Co, FL	70	1999			1.85					Orange County
Orange Co, FL	123	1999			4.81					Orange County
Orange Co, FL	123	1999			3.70					Orange County
Orange Co, FL	211	2000			2.23					Orange County
Orange Co, FL	144	2000			7.32					Orange County
Orange Co, FL	105	2001			5.25					Orange County
Orange Co, FL	891	2005	-	-	5.69	-	-	-	-	Orange County
Orange Co, FL	1,584	2005	-	-	5.88	-	-	-	-	Orange County
Orange Co, FL	210	2006	-	-	4.88	-	-	-	-	Orange County
Orange Co, FL	1499	2006	-	-	4.69	-	-	-	-	Orange County
Orange Co, FL	144	-	-	-	4.74	-	-	-	-	Orange County
Orange Co, FL	148	-	-	-	7.61	-	-	-	-	Orange County
Orange Co, FL	160	-	-	-	6.19	-	-	-	-	Orange County
Orange Co, FL	130	-	-	-	4.29	-	-	-	-	Orange County
Orange Co, FL	130	-	-	-	3.40	-	-	-	-	Orange County
Orange Co, FL	144	-	-	-	7.66	-	-	-	-	Orange County
Orange Co, FL	100	-	-	-	7.37	-	-	-	-	Orange County
Orange Co, FL	190	-	-	-	4.71	-	-	-	-	Orange County
Orange Co, FL	1501	2011	-	-	3.50	-	-	-	-	Tindale-Oliver & Associates
Orange Co, FL	174	2011			7.03					Tindale-Oliver & Associates
Orange Co, FL	238	2014	-	-	4.05	-	-	-	-	Tindale-Oliver & Associates
Total Size	10,184	36	164	Average Trip Length:			**6.25**			
ITE	1,036	7		Weighted Average Trip Length:			**6.26**			
Blended total	11,220				Weighted Percent New Trip Average:			**66.33**		
							Weighted Average Trip Generation Rate:			5.31
							ITE Average Trip Generation Rate:			7.99
					Blend of Size or Units to Florida Studies and ITE Average Trip Generation Rate:					**5.56**

Motel (ITE LUC 320)										
Location	Size (Rooms)	Date	Total # Interviews	# Trip Length Interviews	Trip Gen Rate	Time Period	Trip Length	Percent New Trips	VMT	Source
Pinellas Co, FL	48	Oct-89	46	24	-	10a-2p	2.80	65.0	-	Tindale-Oliver & Associates
Pinellas Co, FL	54	Oct-89	32	22	-	12p-7p	3.80	69.0	-	Tindale-Oliver & Associates
Pinellas Co, FL	120	Oct-89	26	22	-	2p-7p	5.20	84.6	-	Tindale-Oliver & Associates
			104	Average Trip Length:			**3.93**			
				Weighted Average Trip Length:			**4.34**			
					Weighted Percent New Trip Average:			**76.57**		

Movie Theater (ITE LUC 445)										
Location	Size (Screens)	Date	Total # Interviews	# Trip Length Interviews	Trip Gen Rate	Time Period	Trip Length	Percent New Trips	VMT	Source
Pinellas Co, FL	8	Oct-89	151	116	113.10	2p-8p	2.70	77.0	235.13	Tindale-Oliver & Associates
Pinellas Co, FL	12	Sep-89	122	116	63.40	2p-8p	1.90	95.0	114.44	Tindale-Oliver & Associates
Total Size	20.0	2	273	Average Trip Length:			**2.30**			
ITE	6.0	1		Weighted Average Trip Length:			**2.22**			
Blended total	26.0				Weighted Percent New Trip Average:			**87.80**		
							Weighted Average Trip Generation Rate:			83.28
							ITE Average Trip Generation Rate:			220.00
					Blend of Size or Units to Florida Studies and ITE Average Trip Generation Rate:					**114.83**

Nursing Home (ITE LUC 620)										
Location	Size (Beds)	Date	Total # Interviews	# Trip Length Interviews	Trip Gen Rate	Time Period	Trip Length	Percent New Trips	VMT	Source
Lakeland, FL	120	Mar-90	74	66	2.86	11a-4p	2.59	89.0	6.59	Tindale-Oliver & Associates
Total Size	120.0	1	74	Average Trip Length:			**2.59**			
ITE	480.0	3		Weighted Average Trip Length:			**2.59**			
Blended total	600.0				Weighted Percent New Trip Average:			**89.00**		
							Weighted Average Trip Generation Rate:			2.86
							ITE Average Trip Generation Rate:			3.06
					Blend of Size or Units to Florida Studies and ITE Average Trip Generation Rate:					**3.02**

Animal Hospital / Veterinary Clinic (ITE LUC 640)										
Location	Size (1,000 sf)	Date	Total # Interviews	# Trip Length Interviews	Trip Gen Rate	Time Period	Trip Length	Percent New Trips	VMT	Source
St. Petersburg, FL	4.0	-	-	-	21.5	-	-	-	-	Tindale-Oliver & Associates
Clearwater, FL	3.0	Sep-89			44.0		1.9	70.0	-	Tindale-Oliver & Associates
Clearwater, FL	2.0	Aug-89	-	-	-	-	1.9	70.0	-	Tindale-Oliver & Associates
Total Size	7.0	3	0	Average Trip Length:			**1.90**			
ITE	18.0	3		Weighted Average Trip Length:			**1.90**			
Blended total	25.0				**Weighted Percent New Trip Average:**			**70.00**		
							Weighted Average Trip Generation Rate:			31.14
							ITE Average Trip Generation Rate:			21.50
					Blend of Size or Units to Florida Studies and ITE Average Trip Generation Rate:					**24.20**

General Office Building (ITE LUC 710)										
Location	Size (1,000 sf)	Date	Total # Interviews	# Trip Length Interviews	Trip Gen Rate	Time Period	Trip Length	Percent New Trips	VMT	Source
Sarasota Co, FL	14.3	Jun-93	14	14	46.85	-	11.30	-	529.41	Sarasota County
Gwinnett Co, GA	98.0	Dec-92	-	-	4.30	-	5.40	-	-	Street Smarts
Gwinnett Co, GA	180.0	Dec-92	-	-	3.60	-	5.90	-	-	Street Smarts
Pinellas Co, FL	187.0	Oct-89	431	388	18.49	7a-5p	6.30	90.0	104.84	Tindale-Oliver & Associates
St. Petersburg, FL	262.8	Sep-89	291	274	-	7a-5p	3.40	94.0	-	Tindale-Oliver & Associates
			722	Average Trip Length:			**6.46**			
				Weighted Average Trip Length:			**5.15**			
					Weighted Percent New Trip Average:			**92.34**		

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Medical-Dental Office Building (ITE LUC 720)										
Location	Size (1,000 sf)	Date	Total # Interviews	# Trip Length Interviews	Trip Gen Rate	Time Period	Trip Length	Percent New Trips	VMT	Source
Tampa, FL	-	Mar-86	33	26	-	-	6.00	79.0	-	Kimley-Horn & Associates
Palm Harbor, FL	14.6	Oct-89	104	76	33.98	9a-5p	6.30	73.0	156.27	Tindale-Oliver & Associates
St. Petersburg, FL	-	Nov-89	34	30	57.20	9a-4p	1.20	88.0	-	Tindale-Oliver & Associates
Hernando Co, FL	58.4	May-96	390	349	28.52	9a-6p	6.47	89.5	165.09	Tindale-Oliver & Associates
Hernando Co, FL	28.0	May-96	202	189	49.75	9a-6p	6.06	93.8	282.64	Tindale-Oliver & Associates
Charlotte Co, FL	11.0	Oct-97	-	186	49.50	9a-5p	4.60	92.1	209.67	Tindale-Oliver & Associates
Charlotte Co, FL	28.0	Oct-97	-	186	31.00	9a-5p	3.60	81.6	91.04	Tindale-Oliver & Associates
Charlotte Co, FL	30.4	Oct-97	-	324	39.80	9a-5p	3.30	83.5	109.68	Tindale-Oliver & Associates
Citrus Co, FL	38.9	Oct-03	-	168	32.26	8-6p	6.80	97.1	213.03	Tindale-Oliver & Associates
Citrus Co, FL	10.0	Nov-03	-	340	40.56	8-630p	6.20	92.4	232.33	Tindale-Oliver & Associates
Citrus Co, FL	5.3	Dec-03	-	20	29.36	8-5p	5.25	95.2	146.78	Tindale-Oliver & Associates
Orange Co, FL	50.6	-	-	-	26.72	-	-	-	-	Orange County
Orange Co, FL	23.5	-	-	-	16.58	-	-	-	-	Orange County
Total Size	298.7	13	763	Average Trip Length:			**5.07**			
ITE	270.0	18		Weighted Average Trip Length:			**5.55**			
Blended total	568.7				Weighted Percent New Trip Average:			**88.9**		
							Weighted Average Trip Generation Rate:			32.59
							ITE Average Trip Generation Rate:			36.00
					Blend of Size or Units to Florida Studies and ITE Average Trip Generation Rate:					**34.21**

Business Park (ITE LUC 770)										
Location	**Size (1,000 sf)**	**Date**	**Total # Interviews**	**# Trip Length Interviews**	**Trip Gen Rate**	**Time Period**	**Trip Length**	**Percent New Trips**	**VMT**	**Source**
Collier County, FL	14.1	May-99	-	55	33.48	8a-6p	3.60	72.7	87.62	Tindale-Oliver & Associates
Collier County, FL	66.0	May-99	-	43	11.53	8a-6p	5.70	79.0	51.92	Tindale-Oliver & Associates
Collier County, FL	211.1	May-99	-	284	17.91	8a-6p	5.40	93.0	89.84	Tindale-Oliver & Associates
				Average Trip Length:			**4.90**			
				Weighted Average Trip Length:			**5.38**			
					Weighted Percent New Trip Average:			**88.8**		

New/Used Automobile Sales (ITE LUC 840/841)										
Location	**Size (1,000 sf)**	**Date**	**Total # Interviews**	**# Trip Length Interviews**	**Trip Gen Rate**	**Time Period**	**Trip Length**	**Percent New Trips**	**VMT**	**Source**
St.Petersburg, FL	43.0	Oct-89	152	120	-	9a-5p	4.70	79.0	-	Tindale-Oliver & Associates
Clearwater, FL	43.0	Oct-89	136	106	29.40	9a-5p	4.50	78.0	103.19	Tindale-Oliver & Associates
Orange Co, FL	13.8	1997	-	-	35.75	-	-	-	-	Orange County
Orange Co, FL	34.4	1998			23.45					Orange County
Orange Co, FL	66.3	2001	-	-	28.50	-	-	-	-	Orange County
Orange Co, FL	39.1	2002	-	-	10.48	-	-	-	-	Orange County
Orange Co, FL	116.7	2003	-	-	22.18	-	-	-	-	Orange County
Orange Co, FL	51.7	2007	-	-	40.34	-	-	-	-	L-TEC
Orange Co, FL	36.6	-	-	-	15.17	-	-	-	-	Orange County
Orange Co, FL	216.4	2008	-	-	13.45	-	-	-	-	Orange County
Total Size	618.00	17	288	Average Trip Length:			**4.60**			
ITE LUC 840	648.0	18		Weighted Average Trip Length:			**4.60**			
ITE LUC 841	28.0				Weighted Percent New Trip Average:			**78.50**		
Blended total	1,294.00						Weighted Average Trip Generation Rate:			21.04
							ITE Average Trip Generation Rate (LUC 840):			27.84
							ITE Average Trip Generation Rate (LUC 841):			27.06
					Blend of Size or Units to Florida Studies and ITE Average Trip Generation Rate:					**24.58**

Pharmacy/Drugstore with and without Drive-Thru (ITE LUC 880/881)										
Location	**Size (1,000 sf)**	**Date**	**Total # Interviews**	**# Trip Length Interviews**	**Trip Gen Rate**	**Time Period**	**Trip Length**	**Percent New Trips**	**VMT**	**Source**
Pasco Co, FL	11.1	Apr-02	138	38	88.97	-	2.05	27.5	50.23	Tindale-Oliver & Associates
Pasco Co, FL	12.0	Apr-02	212	90	122.16	-	2.04	42.5	105.79	Tindale-Oliver & Associates
Pasco Co, FL	15.1	Apr-02	1192	54	97.96	-	2.13	28.1	58.69	Tindale-Oliver & Associates
Total Size	38.20	3	1542	Average Trip Length:			**2.07**			
ITE LUC 880	66.0	6		Weighted Average Trip Length:			**2.08**			
ITE LUC 881	208.0	16			Weighted Percent New Trip Average:			**32.4**		
Blended total	312.20						Weighted Average Trip Generation Rate:			102.95
							ITE Average Trip Generation Rate (LUC 880):			90.08
							ITE Average Trip Generation Rate (LUC 881):			108.40
					Blend of Size or Units to Florida Studies and ITE Average Trip Generation Rate:					**103.86**

Self-Service Car Wash (ITE LUC 947)										
Location	**Size (Bays)**	**Date**	**Total # Interviews**	**# Trip Length Interviews**	**Trip Gen Rate**	**Time Period**	**Trip Length**	**Percent New Trips**	**VMT**	**Source**
Largo, FL	10	Nov-89	111	84	-	8am-5pm	2.00	76.0	-	Tindale-Oliver & Associates
Clearwater, FL	-	Nov-89	177	108	-	10am-5pm	1.30	61.0	-	Tindale-Oliver & Associates
Collier, FL	11	Dec-09	304	-	30.24	-	2.50	57.0	-	Tindale-Oliver & Associates
Collier, FL	8	Jan-09	186	-	22.75	-	1.96	72.0	-	Tindale-Oliver & Associates
Total Size	29.00	3	778	Average Trip Length:			**1.94**			
ITE	5.0	1		Weighted Average Trip Length:			**2.18**			
Blended total	34.00				Weighted Percent New Trip Average:			**67.7**		
							Weighted Average Trip Generation Rate:			27.09
Total Size (TGR)	19.00						ITE Average Trip Generation Rate:			108.00
Blended total	24.00				**Blend of Size or Units to Florida Studies and ITE Average Trip Generation Rate:**					**43.94**

APPENDIX D:

CALCULATED TRANSPORTATION IMPACT FEE SCHEDULE

Appendix D: Calculated Transportation Impact Fee Schedule

This Appendix presents the detailed fee calculations for each land use in the City of Port Orange transportation impact fee schedule.

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Table 28: Calculated Transportation Impact Fee Schedule

Gasoline Tax	
$$ per Gallon to Capital:	$0.0558
Facility Life (Years):	25
Interest Rate:	3.50%
Credit:	$14.34

Unit Cost per Lane Mile:	$5,000,000
Average VMC per Lane:	10,500
Fuel Efficiency:	22.9
Effective Days per Year:	365

Columns:		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
ITE LUC	**Land Use**	**Unit**	**ITE Trip Rate**	**Recommended Trip Rate**	**Trip Rate Source**	**Total Trip Length**	**Assessable Trip Length**	**% New Trips**	**% New Trips Source**	**VMT (1)**	**Cost Per VMT**	**Total Impact Cost**	**Gas Credit**	**Net Impact Fee**	**Current Impact Fee**	**% Change**
										(C x F x G)/2		I x J	$14.34 x I	K - L		
	INDUSTRIAL															
110	General Light Industrial	1,000 Sq. Ft. GFA	4.87	4.87	ITE 11th Edition	3.06	0.58	92%	Same as LUC 710	1.30	$ 476.19	$ 618.72	$ 18.63	$ 600	$ 357	68%
130	Industrial Park	1,000 Sq. Ft. GFA	3.37	3.37	ITE 11th Edition	3.06	0.58	92%	Same as LUC 710	0.90	$ 476.19	$ 428.15	$ 12.89	$ 415	$ 819	-49%
140	Manufacturing	1,000 Sq. Ft. GFA	4.75	4.75	ITE 11th Edition	3.06	0.58	92%	Same as LUC 710	1.27	$ 476.19	$ 603.48	$ 18.17	$ 585	$ 361	62%
150	Warehousing	1,000 Sq. Ft. GFA	1.71	1.71	ITE 11th Edition	3.06	0.58	92%	Same as LUC 710	0.46	$ 476.19	$ 217.25	$ 6.54	$ 211	$ 451	-53%
151	Mini-Warehouse	1,000 Sq. Ft. GFA	1.45	1.45	ITE 11th Edition	3.06	0.58	92%	Same as LUC 710	0.39	$ 476.19	$ 184.22	$ 5.55	$ 179	$ 151	18%
	RESIDENTIAL															
210	Single-Family Detached Housing	DU	9.43	9.43	ITE 11th Edition	3.06	0.58	100%	N/A	2.73	$ 476.19	$ 1,302.24	$ 39.22	$ 1,263	$ 902.00	40%
220	Multifamily Housing (Low-Rise)	DU	6.74	6.74	ITE 11th Edition	3.06	0.58	100%	N/A	1.95	$ 476.19	$ 930.76	$ 28.03	$ 903	$ 665	36%
221	Multifamily Housing (Mid-Rise)	DU	4.54	4.54	ITE 11th Edition	3.06	0.58	100%	N/A	1.32	$ 476.19	$ 626.95	$ 18.88	$ 608	-	N/A
222	Multifamily Housing (High-Rise)	DU	4.54	4.54	ITE 11th Edition	3.06	0.58	100%	N/A	1.32	$ 476.19	$ 626.95	$ 18.88	$ 608	-	N/A
230	Low-Rise Residential with Ground-Floor Commercial	GFA (1-25K)	3.44	3.44	ITE 11th Edition	3.06	0.58	100%	N/A	1.00	$ 476.19	$ 475.05	$ 14.31	$ 461	$ 443	4%
231	Mid-Rise Residential with Ground-Floor Commercial	GFA (1-25K)	3.44	3.44	ITE 10th Edition	3.06	0.58	100%	N/A	1.00	$ 476.19	$ 475.05	$ 14.31	$ 461	-	N/A
232	High-Rise Residential with Ground-Floor Commercial	GFA (1-25K)	3.44	3.44	Same as LUC 231	3.06	0.58	100%	N/A	1.00	$ 476.19	$ 475.05	$ 14.31	$ 461	-	N/A
240	Mobile Home Park	DU	7.12	7.12	ITE 11th Edition	3.06	0.58	100%	N/A	2.06	$ 476.19	$ 983.24	$ 29.61	$ 954	$ 349	173%
	LODGING															
310	Hotel	Rooms	7.99	7.99	ITE 11th Edition	3.07	0.58	66%	FL Studies	1.54	$ 476.19	$ 731.87	$ 22.04	$ 710	$ 665.00	7%
320	Motel	Rooms	3.35	3.35	ITE 11th Edition	3.07	0.58	77%	FL Studies	0.74	$ 476.19	$ 354.23	$ 10.67	$ 344	$ 365.00	-6%
	RECREATIONAL															
416	Campground/Recreational Vehicle Park (2) (3)	Sites	0.27 PM Peak	2.7	ITE 11th Edition (Adjusted)	3.07	0.58	100%	N/A	0.78	$ 476.19	$ 372.86	$ 11.23	$ 362	$ 295.00	23%
420	Marina	Berths	2.41	2.41	ITE 11th Edition	3.07	0.58	100%	N/A	0.70	$ 476.19	$ 332.81	$ 10.02	$ 323	$ 351	-8%
445	Movie Theater	Screens	220.00	114.83	Blend FL Studies & ITE 11th Edition	3.07	0.58	88%	FL Studies	29.24	$ 476.19	$ 13,922.85	$ 419.27	$ 13,504	$ 4,172	224%
492	Health/Fitness Club (2)	1,000 Sq. Ft. GFA	3.45 PM Peak	34.50	ITE 11th Edition	3.07	0.58	94%	FL Studies	9.40	$ 476.19	$ 4,478.42	$ 134.86	$ 4,344	-	N/A

Gasoline Tax
$$ per Gallon to Capital: $0.0558
Facility Life (Years): 25
Interest Rate: 3.50%
Credit: $14.34

Unit Cost per Lane Mile: $5,000,000
Average VMC per Lane: 10,500
Fuel Efficiency: 22.9
Effective Days per Year: 365

	Columns:	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
ITE LUC	**Land Use**	**Unit**	**ITE Trip Rate**	**Recommended Trip Rate**	**Trip Rate Source**	**Total Trip Length**	**Assessable Trip Length**	**% New Trips**	**% New Trips Source**	**VMT (1)**	**Cost Per VMT**	**Total Impact Cost**	**Gas Credit**	**Net Impact Fee**	**Current Impact Fee**	**% Change**
										(C x F x G)/2		I x J	$14.34 x I	K - L		
	INSTITUTIONAL															
560	Place of Worship	1,000 Sq. Ft. GFA	7.60	7.60	ITE 11th Edition	3.66	0.69	90%	Based on LUC 710	2.36	$ 476.19	$ 1,123.71	$ 33.84	$ 1,090	$ 526	107%
565	Day Care Center	1,000 Sq. Ft. GFA	47.62	47.62	ITE 11th Edition	3.66	0.69	56%	ITE Tables	9.20	$ 476.19	$ 4,381.04	$ 131.93	$ 4,249	$ 1,844	130%
	MEDICAL															
610	Hospital	1,000 Sq. Ft. GFA	10.77	10.77	ITE 11th Edition	3.06	0.58	100%	N/A	3.12	$ 476.19	$ 1,487.28	$ 44.79	$ 1,442	$ 1,093	32%
620	Nursing Home	Beds	3.06	3.06	ITE 11th Edition	3.06	0.58	89%	FL Studies	0.79	$ 476.19	$ 376.09	$ 11.33	$ 365	$ 101	261%
630	Clinic	1,000 Sq. Ft. GFA	37.60	37.60	ITE 11th Edition	3.06	0.58	100%	N/A	10.90	$ 476.19	$ 5,192.38	$ 156.36	$ 5,036	-	N/A
640	Animal Hospital/Veterinary Clinic	1,000 Sq. Ft. GFA	21.50	21.50	ITE 11th Edition	3.06	0.58	70%	FL Studies	4.36	$ 476.19	$ 2,078.33	$ 62.59	$ 2,016	$ 879	129%
	OFFICE															
710	General Office Building	1,000 Sq. Ft. GFA	10.84	10.84	ITE 11th Edition	3.45	0.65	92%	FL Studies	3.25	$ 476.19	$ 1,549.11	$ 46.65	$ 1,502	$ 1,646	-9%
712	Small Office Building	1,000 Sq. Ft. GFA	14.39	14.39	ITE 11th Edition	3.45	0.65	92%	Same as LUC 710	4.30	$ 476.19	$ 2,048.86	$ 61.70	$ 1,987	-	N/A
714	Corporate Headquarters Building	1,000 Sq. Ft. GFA	7.95	7.95	ITE 11th Edition	3.45	0.65	92%	Same as LUC 710	2.38	$ 476.19	$ 1,131.93	$ 34.09	$ 1,098	$ 522	110%
720	Medical-Dental Office Building	1,000 Sq. Ft. GFA	36.00	36.00	ITE 11th Edition	3.45	0.65	89%	FL Studies	10.40	$ 476.19	$ 4,953.00	$ 149.15	$ 4,804	$ 2,573	87%
750	Office Park	1,000 Sq. Ft. GFA	11.07	11.07	ITE 11th Edition	3.45	0.65	92%	Same as LUC 710	3.31	$ 476.19	$ 1,576.16	$ 47.46	$ 1,529	$ 1,498	2%
760	Research Center	1,000 Sq. Ft. GFA	11.08	11.08	ITE 11th Edition	3.45	0.65	92%	Same as LUC 710	3.31	$ 476.19	$ 1,577.58	$ 47.51	$ 1,530	$ 637	140%
770	Business Park	1,000 Sq. Ft. GFA	12.44	12.44	ITE 11th Edition	3.45	0.65	89%	FL Studies	3.60	$ 476.19	$ 1,713.46	$ 51.60	$ 1,662	$ 1,399	19%
	RETAIL															
812	Building Materials and Lumber Store	1,000 Sq. Ft. GFA	17.05	17.05	ITE 11th Edition	2.95	0.56	74%	Same as LUC 816	3.53	$ 476.19	$ 1,682.26	$ 50.66	$ 1,632	$ 2,064	-21%
816	Hardware/Paint Store	1,000 Sq. Ft. GFA	8.07	8.07	ITE 11th Edition	2.95	0.56	74%	ITE Tables	1.67	$ 476.19	$ 796.24	$ 23.98	$ 772	$ 5,381	-86%
817	Nursery (Garden Center)	1,000 Sq. Ft. GFA	68.10	68.10	ITE 11th Edition	2.95	0.56	74%	Same as LUC 816	14.11	$ 476.19	$ 6,719.19	$ 202.34	$ 6,517	-	N/A
820	Shopping Center (>150k)	1,000 Sq. Ft. GFA	37.01	37.01	ITE 11th Edition	2.95	0.56	60%	Same as LUC 821	6.22	$ 476.19	$ 2,960.80	$ 89.16	$ 2,872	$ 2,217	30%
821	Shopping Plaza (40-150k)	1,000 Sq. Ft. GFA	94.49	94.49	ITE 11th Edition	2.95	0.56	60%	ITE Tables	15.87	$ 476.19	$ 7,559.19	$ 227.64	$ 7,332	-	N/A
822	Strip Retail Plaza (<40k)	1,000 Sq. Ft. GFA	54.45	54.45	ITE 11th Edition	2.95	0.56	60%	Same as LUC 821	9.15	$ 476.19	$ 4,356.00	$ 131.18	$ 4,225	-	N/A
840	Automobile Sales (New)	1,000 Sq. Ft. GFA	27.84	27.84	ITE 11th Edition	2.95	0.56	78%	FL Studies	6.08	$ 476.19	$ 2,895.36	$ 87.19	$ 2,808	$ 2,034	38%
841	Automobile Sales (Used)	1,000 Sq. Ft. GFA	27.06	27.06	ITE 11th Edition	2.95	0.56	78%	FL Studies	5.91	$ 476.19	$ 2,814.24	$ 84.75	$ 2,729	$ 2,034	34%

Gasoline Tax
$$ per Gallon to Capital: $0.0558
Facility Life (Years): 25
Interest Rate: 3.50%
Credit: $14.34

Unit Cost per Lane Mile: $5,000,000
Average VMC per Lane: 10,500
Fuel Efficiency: 22.9
Effective Days per Year: 365

	Columns:	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
ITE LUC	**Land Use**	**Unit**	**ITE Trip Rate**	**Recommended Trip Rate**	**Trip Rate Source**	**Total Trip Length**	**Assessable Trip Length**	**% New Trips**	**% New Trips Source**	**VMT (1)**	**Cost Per VMT**	**Total Impact Cost**	**Gas Credit**	**Net Impact Fee**	**Current Impact Fee**	**% Change**
										(C x F x G)/2		I x J	$14.34 x I	K - L		
849	Tire Superstore	1,000 Sq. Ft. GFA	20.37	30.55	ITE 11th Edition	2.95	0.56	79%	Same as LUC 840	6.76	$ 476.19	$ 3,217.93	$ 96.90	$ 3,121	$ 977	219%
850	Supermarket	1,000 Sq. Ft. GFA	93.84	93.84	ITE 11th Edition	2.95	0.56	74%	ITE Tables	19.44	$ 476.19	$ 9,258.87	$ 278.82	$ 8,980	$ 2,152	317%
851	Convenience Store (w/o gas station)	1,000 Sq. Ft. GFA	762.28	762.28	ITE 11th Edition	1.22	0.23	23%	Same as LUC 944	20.16	$ 476.19	$ 9,601.09	$ 289.13	$ 9,312	$ 6,787	37%
862	Home Improvement Superstore	1,000 Sq. Ft. GFA	30.74	30.74	ITE 11th Edition	2.95	0.56	58%	ITE Tables	4.99	$ 476.19	$ 2,377.22	$ 71.59	$ 2,306	$ 1,274	81%
880	Pharmacy/Drugstore without Drive-Through Window	1,000 Sq. Ft. GFA	90.08	90.08	ITE 11th Edition	2.95	0.56	32%	FL Studies	8.17	$ 476.19	$ 3,891.45	$ 117.19	$ 3,774	-	N/A
881	Pharmacy/Drugstore with Drive-Through Window	1,000 Sq. Ft. GFA	108.40	108.40	ITE 11th Edition	2.95	0.56	32%	FL Studies	9.83	$ 476.19	$ 4,682.88	$ 141.02	$ 4,542	$ 1,394	226%
882	Marijuana Dispensary	1,000 Sq. Ft. GFA	211.12	211.12	ITE 11th Edition	2.95	0.56	32%	Same as LUC 880 & LUC 881	18.92	$ 476.19	$ 9,007.78	$ 271.26	$ 8,737	-	N/A
890	Furniture Store	1,000 Sq. Ft. GFA	6.30	6.30	ITE 11th Edition	2.95	0.56	47%	ITE	0.83	$ 476.19	$ 394.80	$ 11.89	$ 383	$ 249	54%
899	Liquor Store	1,000 Sq. Ft. GFA	107.21	107.21	ITE 11th Edition	2.95	0.56	47%	Same as LUC 890	14.11	$ 476.19	$ 6,718.49	$ 202.32	$ 6,516	-	N/A
	SERVICES															
911	Walk-in Bank (2)	1,000 Sq. Ft. GFA	12.13 PM Peak	121.30	11th Edition (Adjusted)	1.53	0.29	65%	Same as LUC 912	11.43	$ 476.19	$ 5,444.05	$ 163.94	$ 5,280	$ 3,037	74%
912	Drive-in Bank	1,000 Sq. Ft. GFA	100.35	100.35	ITE 11 Edition	1.53	0.29	65%	ITE Tables	9.46	$ 476.19	$ 4,503.80	$ 135.63	$ 4,368	$ 5,925	-26%
931	Fine Dining Restaurant	1,000 Sq. Ft. GFA	83.84	83.84	ITE 11th Edition	2.3	0.44	56%	ITE Tables	10.33	$ 476.19	$ 4,918.61	$ 148.12	$ 4,770	$ 3,569	34%
932	High-Turnover (Sit-Down) Restaurant	1,000 Sq. Ft. GFA	107.20	107.2	ITE 11th Edition	2.3	0.44	57%	ITE Tables	13.44	$ 476.19	$ 6,401.37	$ 192.77	$ 6,209	$ 5,118	21%
933	Fast-Food Restaurant without Drive-Through Window	1,000 Sq. Ft. GFA	450.49	450.49	ITE 11th Edition	1.22	0.23	57%	Same as LUC 934	29.53	$ 476.19	$ 14,061.71	$ 423.45	$ 13,638	$ 9,939	37%
934	Fast-Food Restaurant with Drive-Through Window	1,000 Sq. Ft. GFA	467.48	467.48	ITE 11th Edition	1.22	0.23	45%	ITE Tables	24.19	$ 476.19	$ 11,520.03	$ 346.91	$ 11,173	$ 9,939	12%
935	Fast-Food Restaurant with Drive-Through Window and No Indoor Seating	1,000 Sq. Ft. GFA	459.20	459.20	ITE 10th Edition	1.22	0.23	69%	ITE Tables	36.44	$ 476.19	$ 17,351.18	$ 522.51	$ 16,829	-	N/A
936	Coffee/Donut Shop without Drive-Through Window	1,000 Sq. Ft. GFA	32.39 PM Peak	107.20	Same as LUC 932	1.22	0.23	57%	Same as LUC 932	7.03	$ 476.19	$ 3,346.17	$ 100.77	$ 3,245	-	N/A
937	Coffee/Donut Shop with Drive-Through Window	1,000 Sq. Ft. GFA	533.57	533.57	ITE 11th Edition	1.22	0.23	10%	Same as LUC 938	6.14	$ 476.19	$ 2,921.93	$ 87.99	$ 2,834	-	N/A
938	Coffee/Donut Shop with Drive-Through Window and No Indoor Seating	Drive-Through Lanes	179.00	179.00	ITE 11th Edition	1.22	0.23	10%	ITE Tables	2.06	$ 476.19	$ 980.24	$ 29.52	$ 951	-	N/A

Gasoline Tax		Unit Cost per Lane Mile:	$5,000,000
$$ per Gallon to Capital:	$0.0558	Average VMC per Lane:	10,500
Facility Life (Years):	25	Fuel Efficiency:	22.9
Interest Rate:	3.50%	Effective Days per Year:	365
Credit:	$14.34		

Columns:	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
ITE LUC	**Land Use**	**Unit**	**ITE Trip Rate**	**Recommended Trip Rate**	**Trip Rate Source**	**Total Trip Length**	**Assessable Trip Length**	**% New Trips**	**% New Trips Source**	**VMT (1)**	**Cost Per VMT**	**Total Impact Cost**	**Gas Credit**	**Net Impact Fee**	**Current Impact Fee**	**% Change**
										(C x F x G)/2		I x J	$14.34 x I	K - L		
941	Quick Lubrication Vehicle Shop	Servicing Positions	40.00	40.00	ITE 11th Edition	2.96	0.56	68%	Same as LUC 947	7.62	$ 476.19	$ 3,626.66	$ 109.21	$ 3,517	$ 1,640	114%
944	Gasoline/Service Station	Vehicle Fueling Positions	172.01	172.01	ITE 11th Edition	1.53	0.29	43%	ITE Tables	10.72	$ 476.19	$ 5,107.05	$ 153.79	$ 4,953	-	N/A
945	Convenience Store/Gas Station	Vehicle Fueling Positions	265.12	265.12	ITE 11th Edition	1.22	0.23	44%	ITE Tables	13.42	$ 476.19	$ 6,388.12	$ 192.37	$ 6,196	$ 5,801	7%
947	Self-Service Car Wash	Wash Stalls	108.00	43.94	Blend FL Studies & ITE 11th Edition	2.96	0.56	68%	FL Studies	8.33	$ 476.19	$ 3,966.31	$ 119.44	$ 3,847	$ 3,205	20%
948	Automated Car Wash (2)	1,000 Sq. Ft. GFA	14.2 PM Peak	142.00	ITE 11 Edition (Adjusted)	2.96	0.56	68%	Same as LUC 947	27.04	$ 476.19	$ 12,874.65	$ 387.71	$ 12,487	-	N/A
971	Brewery Tap Room	1,000 Sq. Ft. GFA	61.69	61.69	ITE 11th Edition	2.96	0.56	60%	Same as LUC 820	10.36	$ 476.19	$ 4,935.20	$ 148.62	$ 4,787	-	N/A
975	Drinking Place (2)	1,000 Sq. Ft. GFA	11.36	113.60	ITE 11th Edition (Adjusted)	2.96	0.56	60%	Same as LUC 820	19.08	$ 476.19	$ 9,087.99	$ 273.68	$ 8,814	$ 6,439	37%

Notes:

(1) Net VMT calculated as ((Trip Generation Rate* Trip Length* % New Trips)/2). This reflects the unit of vehicle miles of capacity consumed per unit of development and is multiplied by the cost per vehicle.
(2) The ITE 11th Edition trip generation rate for PM Peak Hour of Adjacent Street Traffic was adjusted by a factor of 10 to approximate Daily Trip Generation Rate (TGR).
(3) The ITE 11th Edition trip generation rate was adjusted to reflect an average occupancy rate of 60 percent based on data provided by the Florida Association of Parks and Campgrounds.

APPENDIX E:

HB 337 FEE INCREASE CAP CALCULATIONS

Appendix E: HB 337 Fee Increase Cap Calculations

This Appendix presents the detailed calculations for those land use categories with an increased fee amount in the transportation impact fee schedule.

The following table summarizes the 50% cap on each fee amount increase or the actual percentage increase, if less than 50%. Accordingly, the number of installments (2 or 4) for capped increases are highlighted. The fee amount is also highlighted (calculated net impact fee or capped impact fee increase).

The impact fee schedule is summarized in Table 27: Transportation Impact Fee.

Excerpt from HB 337:

(b) An increase to a current impact fee rate of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.

(c) An increase to a current impact fee rate which exceeds 25 percent but is not more than 50 percent of the current rate must be implemented in four equal installments beginning with 133 the date the increased fee is adopted.

(d) An impact fee increase may not exceed 50 percent of the current impact fee rate.

(e) An impact fee may not be increased more than once every 4 years.

(f) An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

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Land Use	ITE LUC	Unit of Measure	Calculated Net Impact Fee	Current Impact Fee	% Change	HB 337 Capped Impact Fee	% Increase	Increase Amount	2 or 4 Years	Increase Amount per Year	Year 2023	Year 2024	Year 2025	Year 2026
INDUSTRIAL														
General Light Industrial	110	1,000 SF	$ 600	$ 357	68%	$ 536	50%	$ 179	4	$ 45	$ 402	$ 446	$ 491	$ 536
Industrial Park	130	1,000 SF	$ 415	$ 819	-49%	N/A	Decrease	N/A	N/A	N/A	$ 415	$ 415	$ 415	$ 415
Manufacturing	140	1,000 SF	$ 585	$ 361	62%	$ 542	50%	$ 181	4	$ 45	$ 406	$ 451	$ 496	$ 542
Warehousing	150	1,000 SF	$ 211	$ 451	-53%	N/A	Decrease	N/A	N/A	N/A	$ 211	$ 211	$ 211	$ 211
Mini-Warehouse	151	1,000 SF	$ 179	$ 151	18%	$ 227	18%	$ 28	2	$ 14	$ 165	$ 179	$ 179	$ 179
RESIDENTIAL														
Single-Family Detached Housing	210	DU	$ 1,263	$ 902	40%	$ 1,353	40%	$ 361	4	$ 90	$ 992	$ 1,083	$ 1,173	$ 1,263
Multifamily Housing (Low-Rise)	220	DU	$ 903	$ 665	36%	$ 998	36%	$ 238	4	$ 59	$ 724	$ 784	$ 843	$ 903
Multifamily Housing (Mid-Rise)	221	DU	$ 608	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 608	$ 608	$ 608	$ 608
Multifamily Housing (High-Rise)	222	DU	$ 608	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 608	$ 608	$ 608	$ 608
Low-Rise Residential with Ground-Floor Commercial	230	GFA (1-25K)	$ 461	$ 443	4%	$ 665	4%	$ 18	2	$ 9	$ 452	$ 461	$ 461	$ 461
Mid-Rise Residential with Ground-Floor Commercial	231	GFA (1-25K)	$ 461	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 461	$ 461	$ 461	$ 461
High-Rise Residential with Ground-Floor Commercial	232	GFA (1-25K)	$ 461	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 461	$ 461	$ 461	$ 461
Mobile Home Park	240	DU	$ 954	$ 349	173%	$ 524	50%	$ 175	4	$ 44	$ 393	$ 436	$ 480	$ 524
LODGING														
Hotel	310	Rooms	$ 710	$ 665	7%	$ 998	7%	$ 45	2	$ 22	$ 687	$ 710	$ 710	$ 710
Motel	320	Rooms	$ 344	$ 365	-6%	N/A	Decrease	N/A	N/A	N/A	$ 344	$ 344	$ 344	$ 344
RECREATIONAL														
Campground/Recreational Vehicle Park	416	Sites	$ 362	$ 295	23%	$ 443	23%	$ 67	2	$ 33	$ 328	$ 362	$ 362	$ 362
Marina	420	Berths	$ 323	$ 351	-8%	N/A	Decrease	N/A	N/A	N/A	$ 323	$ 323	$ 323	$ 323
Movie Theater	445	Screens	$ 13,504	$ 4,172	224%	$ 6,258	50%	$ 2,086	4	$ 522	$ 4,694	$ 5,215	$ 5,737	$ 6,258
Health/Fitness Club	492	1,000 SF	$ 4,344	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 4,344	$ 4,344	$ 4,344	$ 4,344
INSTITUTIONAL														
Place of Worship	560	1,000 SF	$ 1,090	$ 526	107%	$ 789	50%	$ 263	4	$ 66	$ 592	$ 658	$ 723	$ 789
Day Care Center	565	1,000 SF	$ 4,249	$ 1,844	130%	$ 2,766	50%	$ 922	4	$ 231	$ 2,075	$ 2,305	$ 2,536	$ 2,766
MEDICAL														
Hospital	610	1,000 SF	$ 1,442	$ 1,093	32%	$ 1,640	32%	$ 349	4	$ 87	$ 1,180	$ 1,268	$ 1,355	$ 1,442
Nursing Home	620	Beds	$ 365	$ 101	261%	$ 152	50%	$ 51	4	$ 13	$ 114	$ 126	$ 139	$ 152
Clinic	630	1,000 SF	$ 5,036	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 5,036	$ 5,036	$ 5,036	$ 5,036
Animal Hospital/Veterinary Clinic	640	1,000 SF	$ 2,016	$ 879	129%	$ 1,319	50%	$ 440	4	$ 110	$ 989	$ 1,099	$ 1,209	$ 1,319

Land Use	ITE LUC	Unit of Measure	Calculated Net Impact Fee	Current Impact Fee	% Change	HB 337 Capped Impact Fee	% Increase	Increase Amount	2 or 4 Years	Increase Amount per Year	Year 2023	Year 2024	Year 2025	Year 2026
OFFICE														
General Office Building	710	1,000 SF	$ 1,502	$ 1,646	-9%	N/A	Decrease	N/A	N/A	N/A	$ 1,502	$ 1,502	$ 1,502	$ 1,502
Small Office Building	712	1,000 SF	$ 1,987	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 1,987	$ 1,987	$ 1,987	$ 1,987
Corporate Headquarters Building	714	1,000 SF	$ 1,098	$ 522	110%	$ 783	50%	$ 261	4	$ 65	$ 587	$ 653	$ 718	$ 783
Medical-Dental Office Building	720	1,000 SF	$ 4,804	$ 2,573	87%	$ 3,860	50%	$ 1,287	4	$ 322	$ 2,895	$ 3,216	$ 3,538	$ 3,860
Office Park	750	1,000 SF	$ 1,529	$ 1,498	2%	$ 2,247	2%	$ 31	2	$ 15	$ 1,513	$ 1,529	$ 1,529	$ 1,529
Research Center	760	1,000 SF	$ 1,530	$ 637	140%	$ 956	50%	$ 319	4	$ 80	$ 717	$ 796	$ 876	$ 956
Business Park	770	1,000 SF	$ 1,662	$ 1,399	19%	$ 2,099	19%	$ 263	2	$ 131	$ 1,530	$ 1,662	$ 1,662	$ 1,662
RETAIL														
Building Materials and Lumber Store	812	1,000 SF	$ 1,632	$ 2,064	-21%	N/A	Decrease	N/A	N/A	N/A	$ 1,632	$ 1,632	$ 1,632	$ 1,632
Hardware/Paint Store	816	1,000 SF	$ 772	$ 5,381	-86%	N/A	Decrease	N/A	N/A	N/A	$ 772	$ 772	$ 772	$ 772
Nursery (Garden Center)	817	1,000 SF	$ 6,517	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 6,517	$ 6,517	$ 6,517	$ 6,517
Shopping Center (>150k)	820	1,000 SF	$ 2,872	$ 2,217	30%	$ 3,326	30%	$ 655	4	$ 164	$ 2,381	$ 2,544	$ 2,708	$ 2,872
Shopping Plaza (40-150k)	821	1,000 SF	$ 7,332	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 7,332	$ 7,332	$ 7,332	$ 7,332
Strip Retail Plaza (<40k)	822	1,000 SF	$ 4,225	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 4,225	$ 4,225	$ 4,225	$ 4,225
Automobile Sales (New)	840	1,000 SF	$ 2,808	$ 2,034	38%	$ 3,051	38%	$ 774	4	$ 194	$ 2,228	$ 2,421	$ 2,615	$ 2,808
Automobile Sales (Used)	841	1,000 SF	$ 2,729	$ 2,034	34%	$ 3,051	34%	$ 695	4	$ 174	$ 2,208	$ 2,382	$ 2,556	$ 2,729
Tire Superstore	849	1,000 SF	$ 3,121	$ 977	219%	$ 1,466	50%	$ 489	4	$ 122	$ 1,099	$ 1,221	$ 1,343	$ 1,466
Supermarket	850	1,000 SF	$ 8,980	$ 2,152	317%	$ 3,228	50%	$ 1,076	4	$ 269	$ 2,421	$ 2,690	$ 2,959	$ 3,228
Convenience Store (w/o gas station)	851	1,000 SF	$ 9,312	$ 6,787	37%	$ 10,181	37%	$ 2,525	4	$ 631	$ 7,418	$ 8,049	$ 8,681	$ 9,312
Home Improvement Superstore	862	1,000 SF	$ 2,306	$ 1,274	81%	$ 1,911	50%	$ 637	4	$ 159	$ 1,433	$ 1,593	$ 1,752	$ 1,911
Pharmacy/Drugstore without Drive-Through Window	880	1,000 SF	$ 3,774	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 3,774	$ 3,774	$ 3,774	$ 3,774
Pharmacy/Drugstore with Drive-Through Window	881	1,000 SF	$ 4,542	$ 1,394	226%	$ 2,091	50%	$ 697	4	$ 174	$ 1,568	$ 1,743	$ 1,917	$ 2,091
Marijuana Dispensary	882	1,000 SF	$ 8,737	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 8,737	$ 8,737	$ 8,737	$ 8,737
Furniture Store	890	1,000 SF	$ 383	$ 249	54%	$ 374	50%	$ 125	4	$ 31	$ 280	$ 311	$ 342	$ 374
Liquor Store	899	1,000 SF	$ 6,516	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 6,516	$ 6,516	$ 6,516	$ 6,516

Land Use	ITE LUC	Unit of Measure	Calculated Net Impact Fee	Current Impact Fee	% Change	HB 337 Capped Impact Fee	% Increase	Increase Amount	2 or 4 Years	Increase Amount per Year	Year 2023	Year 2024	Year 2025	Year 2026
SERVICES														
Walk-in Bank	911	1,000 SF	$ 5,280	$ 3,037	74%	$ 4,556	50%	$ 1,519	4	$ 380	$ 3,417	$ 3,796	$ 4,176	$ 4,556
Drive-in Bank	912	1,000 SF	$ 4,368	$ 5,925	-26%	N/A	Decrease	N/A	N/A	N/A	$ 4,368	$ 4,368	$ 4,368	$ 4,368
Fine Dining Restaurant	931	1,000 SF	$ 4,770	$ 3,569	34%	$ 5,354	34%	$ 1,201	4	$ 300	$ 3,869	$ 4,170	$ 4,470	$ 4,770
High-Turnover (Sit-Down) Restaurant	932	1,000 SF	$ 6,209	$ 5,118	21%	$ 7,677	21%	$ 1,091	2	$ 545	$ 5,663	$ 6,209	$ 6,209	$ 6,209
Fast-Food Restaurant without Drive-Through Window	933	1,000 SF	$ 13,638	$ 9,939	37%	$ 14,909	37%	$ 3,699	4	$ 925	$ 10,864	$ 11,789	$ 12,713	$ 13,638
Fast-Food Restaurant with Drive-Through Window	934	1,000 SF	$ 11,173	$ 9,939	12%	$ 14,909	12%	$ 1,234	2	$ 617	$ 10,556	$ 11,173	$ 11,173	$ 11,173
Fast-Food Restaurant with Drive-Through Window and No Indoor Seating	935	1,000 SF	$ 16,829	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 16,829	$ 16,829	$ 16,829	$ 16,829
Coffee/Donut Shop without Drive-Through Window	936	1,000 SF	$ 3,245	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 3,245	$ 3,245	$ 3,245	$ 3,245
Coffee/Donut Shop with Drive-Through Window	937	1,000 SF	$ 2,834	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 2,834	$ 2,834	$ 2,834	$ 2,834
Coffee/Donut Shop with Drive-Through Window and No Indoor Seating	938	Lanes	$ 951	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 951	$ 951	$ 951	$ 951
Quick Lubrication Vehicle Shop	941	Positions	$ 3,517	$ 1,640	114%	$ 2,460	50%	$ 820	4	$ 205	$ 1,845	$ 2,050	$ 2,255	$ 2,460
Gasoline/Service Station	944	Positions	$ 4,953	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 4,953	$ 4,953	$ 4,953	$ 4,953
Convenience Store/Gas Station	945	Positions	$ 6,196	$ 5,801	7%	$ 8,702	7%	$ 395	2	$ 197	$ 5,998	$ 6,196	$ 6,196	$ 6,196
Self-Service Car Wash	947	Wash Stalls	$ 3,847	$ 3,205	20%	$ 4,808	20%	$ 642	2	$ 321	$ 3,526	$ 3,847	$ 3,847	$ 3,847
Automated Car Wash	948	1,000 SF	$ 12,487	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 12,487	$ 12,487	$ 12,487	$ 12,487
Brewery Tap Room	971	1,000 SF	$ 4,787	None	N/A	N/A	N/A	N/A	N/A	N/A	$ 4,787	$ 4,787	$ 4,787	$ 4,787
Drinking Place	975	1,000 SF	$ 8,814	$ 6,439	37%	$ 9,659	37%	$ 2,375	4	$ 594	$ 7,033	$ 7,627	$ 8,220	$ 8,814

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Print Form

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:
Ordinance No. 2023-16 - Land Development Code Amendment/Chapter 21 - Update to City Impact Fees

This Business Impact Estimate is provided in accordance with Section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is **not** required by state law[1] for the proposed ordinance, but the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☑ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The proposed ordinance relates to procurement; or
- ☑ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
  c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
  d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

[1] See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

At its February 28, 2023, workshop, the City Council directed staff to proceed with the steps necessary to adjust the City Impact Fees based on the rates proposed in the Municipal Impact Fee Studies prepared by Raftelis Financial Consultants, Inc. (Raftelis). The Raftelis studies serve as the data and analysis for the LDC Code Amendment to implement the changes to the current Fire, Transportation, and Parks and Recreation Impact Fees and to create a Police Impact Fee. Impact fees are charges assessed on new development to help pay for public infrastructure required to accommodate the new development. Impact fees are either charged at the issuance of a building permit or before the issuance of the Certificate of Occupancy for a building. The Fire, Transportation, and Parks and Recreation Impact Fees were last updated in 2005/2006.

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

(a) An estimate of direct compliance costs that businesses may reasonably incur:
Fees in Ordinance No. 2023-16 would only apply to development by businesses.

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible:
A new business or expanding existing business would be responsible for paying the required impact fees. Since 2005, all new or expanding businesses have paid impact fees. Ord. No 2023-16 updates the existing fees.

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:
Fees will be based on what uses are developed in the future. Ordinance No. 2023-16 includes the fees that a new business will need to pay. Since 2005, all new or expanding businesses have paid impact fees. Ord. No 2023-16 updates the existing impact fees.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:
Only those businesses that intiate development will pay an impact fee.

4. Additional information the governing body deems useful[2] (if any):

Impact fees are charges assessed on new development and expanding existing businesses to help pay for public infrastructure required to accommodate the new development. The updated City Impact Fees are based on the rates proposed in the Municipal Impact Fee Studies prepared by Raftelis Financial Consultants, Inc. (Raftelis).

[2] *You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: City staff solicited comments from businesses in the City as to the potential impact of the proposed ordinance by contacting the local Chamber of Commerce, social media posting, direct mail or direct email, posting on City website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses.*

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (H18) First Reading - Ordinance No. 2023-17 - Second Amendment to Restated First Amendment to the Master Development Agreement for Nova Depot Planned Commercial Development

DEPARTMENT: Community Development

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Ordinance No. 2023-17 - Second Amendment to Restated First Amendment to the Master Development Agreement for Nova Depot Planned Commercial Development and authorize Mayor and City Clerk to sign all necessary documents.

SUMMARY: PLANNING COMMISSION ACTION (10/26/23): Recommended approval (6-0)

The proposed Second Amendment to the Restated First Amendment to the Nova Depot Planned Commercial Development (PCD) Master Development Agreement (MDA) is to add a motor vehicle service center as an allowed use on Lot 2A in the PCD. Lot 2A of the Nova Depot PCD is located on the west side of Nova Road, south of Samms Avenue.

Map created by the City of Port Orange Community Development Department

The current Nova Depot MDA was approved in 2013 and established a mix of commercial, office, and institutional uses. In the Nova Depot MDA, the permitted uses for Lot 2A currently include retail sales and services, banks, health/exercise clubs, restaurants, office/medical offices, childcare centers, and veterinary clinics.

The proposed amendment is to add a motor vehicle service center as an allowed use on only Lot 2A. According to the applicant, a Take 5 Oil Change will be built on this lot. According to the Land Development Code (LDC), the proposed oil change business falls under the broad list of businesses listed in the motor vehicle service center use where motor vehicles are services within a building. The proposed Amendment does not change any current permitted uses or other development requirements for any other lots within the Nova Depot PCD.

The properties adjacent to the PCD with commercial zoning include Highway Commercial (HC) to the north, Professional Office (PO) to the east, and Community Commercial (CC) to the south. The property west of Lot 2A is zoned Agriculture (A) and is a storage yard for a land clearing business. There is an existing 6-foot tall wall along the west property line on Lot 2A, and a required 25-foot landscaping buffer is to be installed along the west property line of Lot 2A when Lot 2A is developed.

The proposed Amendment to add a motor vehicle service center as an allowed use on Lot 2A was evaluated based on the current commercial uses allowed within the PCD and the zoning of the properties adjacent to the PCD. The PCD is located along Nova Road, an arterial roadway with commercially zoned areas adjacent to the PCD. Lot 2A is accessible to Nova Road with an existing driveway and connecting cross-access to the other lots within the PCD.

If the Amendment is approved, a site plan to develop the proposed Take 5 Oil Change must be submitted to the City and reviewed and approved by the Staff Development Review Committee (SDRC). Any development on Lot 2A must meet the standard commercial site requirements (landscape buffers, screening, tree preservation, architecture, traffic concurrency, drainage and other infrastructure, parking, etc.) of the City's Land Development Code and the Nova Depot MDA and CDP.

PRESENTER: Penelope Cruz, Tim Burman

ATTACHMENTS:

1.	Ordinance No. 2023-17 with exhibit	Ordinance No. 2023-17 with exhibit .pdf
2.	Staff Report	Staff Report.pdf
3.	2nd Amendment to the Restated 1st Amendment Nova Depot PCD MDA	2nd Amendment to the Restated 1st Amendment Nova Depot PCD MDA.pdf
4.	Ord. 2023-17 Business Impact Estimate	Ord. 2023-17 Business Impact Estimate.pdf

Penelope Cruz Created/Initiated - 10/27/2023
Tim Burman Approved - 10/27/2023

Shannon Balmer	Approved - 11/1/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

ORDINANCE NO. 2023-17

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE SECOND AMENDMENT TO RESTATED FIRST AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT NOVA DEPOT PLANNED COMMERCIAL DEVELOPMENT; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY OF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City and Owner desire to enter into the Second Amendment to Restated First Amendment to the Master Development Agreement Nova Depot Planned Commercial Development (hereinafter referred to as the "Second Amendment"); and

WHEREAS, the Owner submitted a request to the Planning Commission to approve the Second Amendment; and

WHEREAS, a public hearing was held following public notice as prescribed by ordinance; and

WHEREAS, the Planning Commission has by majority vote recommended approval of the proposed Second Amendment; and

WHEREAS, the City Council has approved by a majority vote of the members present the Second Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The City Council of the City of Port Orange does hereby approve the Second Amendment (attached hereto as **Exhibit "1"**).

Section 2. The Mayor and City Clerk are hereby authorized to execute said Second Amendment.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective immediately upon adoption.

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of _____, 2023

Passed and adopted on second and final reading on the day of _____,2023

Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney

EXHIBIT "A"

Document Prepared By:
Michael Sznapstajler, Esquire
Cobb Cole
149 S. Ridgewood Ave. Suite 700
Daytona Beach, FL 32114

Return Recorded Document To:
City of Daytona Beach Records Clerk
P.O. Box 2451
Daytona Beach, FL 32115-2451

SECOND AMENDMENT TO RESTATED FIRST AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT
NOVA DEPOT PLANNED COMMERCIAL DEVELOPMENT

THIS SECOND AMENDMENT TO RESTATED FIRST AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT NOVA DEPOT PLANNED COMMERCIAL DEVELOPMENT AGREEMENT ("Second Amendment") is made and entered into by and between **THE CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation located in Volusia County, Florida (the "City"), and **LARRY C. MARTIN, AS TRUSTEE OF THE MARTIN GRANTOR TRUST UNDER TRUST DATED OCTOBER 1, 2014** ("Owner").

WHEREAS, the Martin Grantor Trust is the Owner of approximately .67 acres of property ("Lot 2A Property"), more particularly described in Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, the City, All Aboard Storage, LLC, and R.K.M. Development Corp. previously entered into an agreement and covenant to bind their successors and assigns to the terms and provisions of a development agreement entitled Restated First Amendment to the Master Development Agreement - Nova Depot Planned Commercial Development ("Restated MDA"), recorded at Book 6929, Page 3542, Public Records of Volusia County, Florida, as amended by The First Amendment to the Restated First Amendment to the Master Development Agreement - Nova Depot Planned Commercial Development ("First Amendment"), recorded at Book 7547, Page 976, Public Records of Volusia County, Florida; and

WHEREAS, the Lot 2A Property is the only property impacted by this Second Amendment to the Restated MDA; and

WHEREAS, Owner proposes to amend the Agreement as set forth herein in order to clarify the allowable uses for Owners' Property; and

WHEREAS, the City is willing to grant Owner's request, subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to amend the Agreement as follows:

Section 5.(b) of the Restated MDA is amended as follows: [additions shown in <u>UNDERLINE</u>, deletions shown in ~~STRIKETHROUGH~~]

(b) Commercial category.

(1) Banks.
(2) Health/exercise clubs*.
(3) Office supplies.
(4) Office/warehouse facilities*[1]
(5) Personal services.
(6) Restaurants.
(7) Retail sales and service.
<u>(8) Motor vehicle service center (Lot 2A only).</u>

[1] Upon recording of this First Amendment to the Nova Depot Planned Commercial Development, office/warehouse shall by operation of law be deleted as a permitted use.

NO OTHER MODIFICATIONS

Except as otherwise expressly provided for herein, the Agreement shall continue in full force and effect.

[Remainder of Page Intentionally Left Blank. Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have set their hands, this ____ day of _____, 2023.

Signed, sealed and delivered in the presence of:	**THE CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation**
_____ Witness 1	By: _____ Donald Burnette, Mayor
_____ Print Name of Witness 1	Attest: _____ Robin L. Fenwick, MMC, City Clerk
_____ Witness 2	Date: _____
_____ Print Name of Witness 2	

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [___] online notarization this _____ day of _____, 2023 by Donald O. Burnette, Mayor, and Robin L. Fenwick, City Clerk, both of the City of Port Orange, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

_____
Notary Public
Commission No: _____

Signed, sealed and delivered in the presence of:

THE MARTIN GRANTOR TRUST UNDER TRUST DATED OCTOBER 1, 2014

_____
Witness 1

_____
Print Name of Witness 1

_____
Larry C. Martin, Trustee

_____
Witness 2

_____
Print Name of Witness 2

Date: _____

[Corporate Seal]

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [___] online notarization this _____ day of _____, 2023, by **LARRY C. MARTIN, AS TRUSTEE OF THE MARTIN GRANTOR TRUST**, referred to in this agreement as "Owner." He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

_____
Notary Public
Commission No. _____

Approved as to legal form:

By: _____
Shannon K. Balmer, Assistant City Attorney

EXHIBIT A

Legal Description of the Property

THE NORTHERLY ONE-HALF (1/2) OF THE EASTERLY ONE-HALF (1/2) OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, EXCEPT THAT PART NOW IN NOVA ROAD S.R. NO. 5, AS RECORDED IN DEED BOOK "M", PAGE 187, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH THE FOLLOWING DESCRIBED LAND:

THE SOUTHERLY ONE-HALF (1/2) OF THE EASTERLY ONE-HALF (1/2) OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, EXCEPT THAT PART NOW IN NOVA ROAD S.R. NO. 5, AS RECORDED IN DEED BOOK "M", PAGE 187, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

LESS AND EXCEPT THE FOLLOWING DESCRIBED LAND:

A PORTION OF THE EASTERLY 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK M, PAGE 187, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE WESTERLY LINE OF THE EASTERLY 1/2 OF SAID LOT 1, BLOCK 25 WITH THE SOUTHERLY RIGHT OF WAY LINE OF SAMMS AVENUE, A 30 FOOT WIDE RIGHT OF WAY, PER SAID MAP OF DUNLAWTON; THENCE RUN N65°15'21"E, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 220.57 FEET TO THE WESTERLY RIGHT OF WAY LINE OF NOVA ROAD; THENCE S69°49'40"E, ALONG SAID WESTERLY RIGHT OF WAY LINE, 14.16 FEET TO A POINT THAT IS 10.00 FEET SOUTHERLY OF SAID SOUTHERLY RIGHT OF WAY LINE OF SAMMS AVENUE AS MEASURED PERPENDICULAR TO SAID SOUTHERLY RIGHT OF WAY LINE; THENCE S65°15'21"W, PARALLEL WITH SAID SOUTHERLY RIGHT OF WAY LINE, 230.50 FEET TO THE WESTERLY LINE OF THE EASTERLY 1/2 OF SAID LOT 1; THENCE N25°19'48"W, ALONG SAID WESTERLY LINE, 10.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED LAND:

A PORTION OF THE EAST 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187, AND RE-RECORDED AS A TRUE COPY IN MAP BOOK 14, PAGES 82 AND 83 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 37, TOWNSHIP 33 SOUTH, RANGE 33 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF SAID LOT 1, BLOCK 25, MAP OF DUNLAWTON; THENCE RUN N25°19'48"W ALONG THE WEST LINE OF SAID EAST 1/2, A DISTANCE OF 445.10 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE N25°19'48"W, 191.01 FEET TO THE SOUTH RIGHT OF WAY LINE OF SAMMS AVENUE AS DESCRIBED IN OFFICIAL RECORDS BOOK 6896, PAGE 225, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE N65°15'21"E ALONG SAID SOUTH RIGHT OF WAY LINE, 230.50 FEET TO THE WEST RIGHT OF WAY LINE OF NOVA ROAD; THENCE S69°49'40"E ALONG SAID WEST

RIGHT OF WAY LINE, 16.11 FEET; THENCE CONTINUE ALONG SAID WEST RIGHT OF WAY LINE S26°00'33"E, 179.67 FEET; THENCE S65°15'21"W, 243.92 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED LAND:

A PORTION OF THE EAST 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187, AND RE-RECORDED AS A TRUE COPY IN MAP BOOK 14, PAGES 82 AND 83 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 37, TOWNSHIP 16 SOUTH, RANGE 33 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF SAID LOT 1, BLOCK 25, MAP OF DUNLAWTON; THENCE RUN N25°19'48"W ALONG THE WEST LINE OF SAID EAST 1/2, A DISTANCE OF 141.02 FEET; THENCE N65°37'159"E, 247.57 FEET TO THE WEST RIGHT OF WAY LINE OF NOVA ROAD; THENCE ALONG SAID WEST RIGHT OF WAY LINE S26°00'33"E, 141.06 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE S65°37'59"W, 249.24 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED LAND:

A PORTION OF THE EAST 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187, AND RE-RECORDED AS A TRUE COPY IN MAP BOOK 14, PAGES 82 AND 83 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 37, TOWNSHIP 16 SOUTH, RANGE 33 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF SAID LOT 1, BLOCK 25, MAP OF DUNLAWTON; THENCE RUN N25°19'48"W ALONG THE WEST LINE OF SAID EAST 1/2, A DISTANCE OF 259.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE N25°19'48"W, 185.85 FEET; THENCE N65°15'21"E, 243.92 FEET TO THE WEST RIGHT OF WAY LINE OF NOVA ROAD; THENCE S26°00'33"E ALONG SAID WEST RIGHT OF WAY LINE, 180.45 FEET; THENCE S63°59'22"W, 246.06 FEET TO THE POINT OF BEGINNING.

SAID PROPERTY ALSO DESCRIBED AS:

A PORTION OF THE EAST 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187, AND RE-RECORDED AS A TRUE COPY IN MAP BOOK 14, PAGES 82 AND 83 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 37, TOWNSHIP 16 SOUTH, RANGE 33 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF SAID LOT 1, BLOCK 25, MAP OF DUNLAWTON; THENCE RUN N25°19'48"W ALONG THE WEST LINE OF SAID EAST 1/2, A DISTANCE OF 141.02 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE N25°19'48"W, 118.23 FEET; THENCE N63°59'22"E,

246.06 FEET TO THE WEST RIGHT OF WAY LINE OF NOVA ROAD; THENCE S26°00'33"E ALONG SAID WEST RIGHT OF WAY LINE, 125.32 FEET; THENCE S65°37'59"W, 247.57 FEET TO THE POINT OF BEGINNING.

STAFF REPORT
Second Amendment to the Restated First Amendment to the Master Development Agreement for the Nova Depot Planned Commercial Development
CASE NO. PRZA-23-0006

REQUEST:	To approve the Second Amendment to the Restated First Amendment to the Master Development Agreement for the Nova Depot Planned Commercial Development to add a motor vehicle service center as a permitted use to Lot 2A.
LOCATION:	3738 Nova Road (Figure 1)
PROPERTY OWNER:	Larry C Martin, Trustee of the Martin Grantor Trust
APPLICANT:	Jessica Gow, Cobb Cole
STAFF CONTACT:	Gwen Perney, Principal Planner (386) 506-5673
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Recommended Approval 6-0 (October 26, 2023)
CITY COUNCIL:	November 14, 2023

INTRODUCTION
The proposed Second Amendment to the Restated First Amendment for the Nova Depot Planned Commercial Development (PCD) Master Development Agreement (MDA) is to add motor vehicle service center as an allowed use on Lot 2A in the PCD. Lot 2A of the Nova Depot PCD is located on the west side of Nova Road, south of Samms Avenue.

Figure 1. Location Map

The subject property is currently regulated by the Nova Depot MDA, as amended, and the Land Development Code (LDC). According to the applicant, if the requested amendment is approved, a Take 5 Oil Change is proposed to be constructed on Lot 2A. The proposed amendment does not change any of the current permitted uses or other development requirements for any other lots within the Nova Depot PCD.

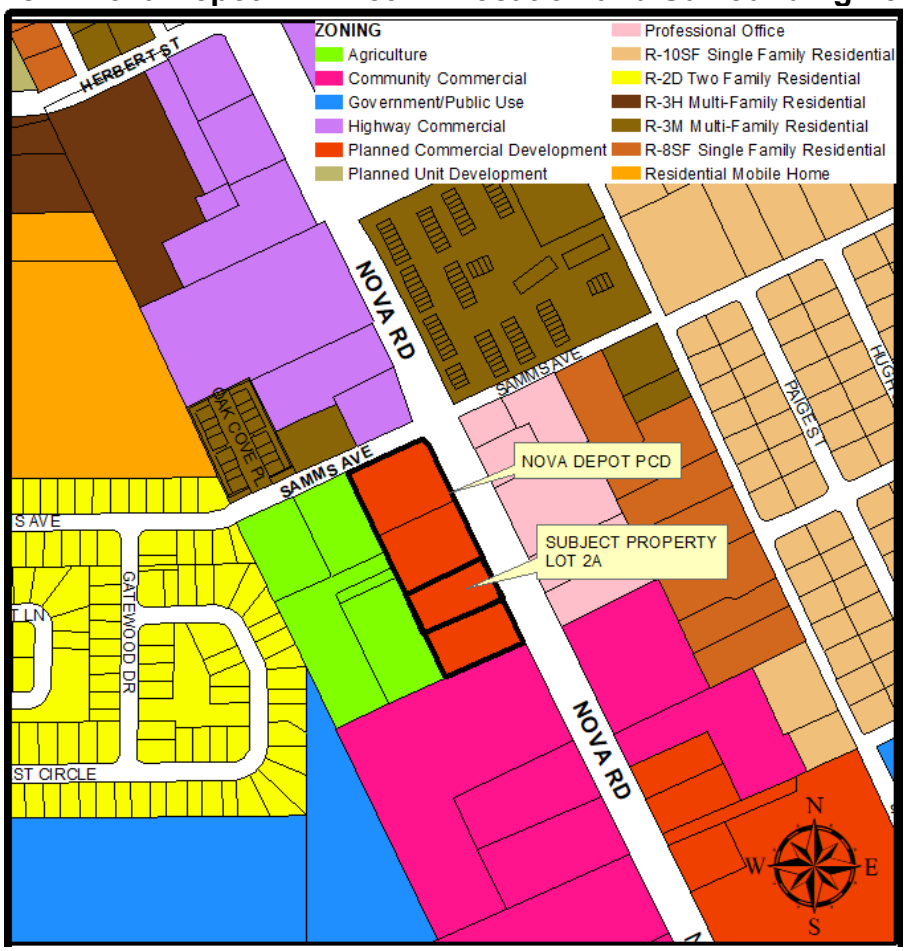
MASTER DEVELOPMENT AGREEMENT AMENDMENT:
The current Nova Depot MDA was approved by the City in 2013 and established a mix of commercial, office, and institutional uses. In the Nova Depot MDA, the permitted uses for Lot 2A currently include retail sales and services, banks, health/exercise clubs, restaurants, office/medical offices, childcare centers, and veterinary clinics. The proposed amendment adds a motor vehicle service center as an allowed use on only Lot 2A. According to the Land Development Code (LDC), the proposed oil change business falls under the broad list of businesses listed in the definition of a motor vehicle service center use where motor vehicles are serviced within a building.

The properties adjacent to the PCD with commercial zoning include Highway Commercial (HC) to the north, Professional Office (PO) to the east, and Community Commercial (CC) to the south. The property to the west is zoned Agriculture (A) and has a storage yard directly behind Lot 2A. There is an existing screening wall along the west property line that will remain along with a required 25-foot landscaping buffer to buffer the use from any adjacent development.

Table 1. Nova Depot PCD Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Commercial (Auto Service Center of Port Orange)	Commercial	Highway Commercial (HC)
South	Commercial (All Aboard Self Storage)	Commercial	Community Commercial (CC)
East	Commercial (Vacant)	Office/Residential Transition	Professional Office (PO)
West	Single-Family Residential (Don Clark's Land Clearing)	Office/Residential Transition	Agriculture (A)

Figure 2. Nova Depot PCD Lot 2A Location and Surrounding Zoning



The PCD currently allows several uses permitted in the Highway Commercial (HC) and Community Commercial (CC) zoning districts, which includes a motor vehicle service center in the HC zoning district. Adding the motor vehicle service center to the Nova Depot PCD would be consistent with the list of permitted uses within the PCD and compatible with the surrounding area.

The proposed amendment to add a motor vehicle service center as an allowed use on Lot 2A was evaluated based on the current commercial uses allowed within the PCD and the zoning of the properties adjacent to the PCD. The PCD is located along Nova Road, an arterial roadway that has commercially zoned areas adjacent to the PCD. Lot 2A is accessible to Nova Road with an existing driveway and connecting cross-access to the other lots within the PCD.

If the amendment is approved, a site plan to develop the proposed Take 5 Oil Change is required to be submitted to the city and reviewed and approved by the Staff Development Review Committee (SDRC). Any development on Lot 2A will be required to meet the standard commercial site requirements (landscape buffers, screening, tree preservation,

architecture, traffic concurrency, drainage and other infrastructure, parking, etc.) of the City's Land Development Code and the Nova Depot MDA and CDP.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The subject property is designated *Office/Residential Transition* on the City's Future Land Use Map. The original MDA was found to be consistent with the City's Comprehensive Plan and the City's Future Land Use (FLU) Map when it was originally approved in 2013. The proposed Second Amendment does not change the FLU designation for the property, and the proposed uses being added to the list of permitted uses of the PCD are consistent with the existing FLU designation of the property.

PUBLIC NOTICE

A Public Notice sign was posted on the site on August 25, 2023. At the time this agenda item was prepared, staff had not received any calls regarding the proposed amendment.

RECOMMENDATION

Staff recommends approval of the Second Amendment to the Restated First Amendment to the Master Development Agreement for the Nova Depot Planned Commercial Development, subject to the City Attorney's review of legal form and content.

ATTACHMENT

Exhibit 1 – Second Amendment to the Restated First Amendment to the Master Development Agreement for the Nova Depot Planned Commercial Development (See Ordinance Exhibit)

Document Prepared By:
Michael Sznapstajler, Esquire
Cobb Cole
149 S. Ridgewood Ave. Suite 700
Daytona Beach, FL 32114

Return Recorded Document To:
City of Daytona Beach Records Clerk
P.O. Box 2451
Daytona Beach, FL 32115-2451

SECOND AMENDMENT TO RESTATED FIRST AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT
NOVA DEPOT PLANNED COMMERCIAL DEVELOPMENT

THIS SECOND AMENDMENT TO RESTATED FIRST AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT NOVA DEPOT PLANNED COMMERCIAL DEVELOPMENT AGREEMENT ("Second Amendment") is made and entered into by and between **THE CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation located in Volusia County, Florida (the "City"), and **LARRY C. MARTIN, AS TRUSTEE OF THE MARTIN GRANTOR TRUST UNDER TRUST DATED OCTOBER 1, 2014** ("Owner").

WHEREAS, the Martin Grantor Trust is the Owner of approximately .67 acres of property ("Lot 2A Property"), more particularly described in Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, the City, All Aboard Storage, LLC, and R.K.M. Development Corp. previously entered into an agreement and covenant to bind their successors and assigns to the terms and provisions of a development agreement entitled Restated First Amendment to the Master Development Agreement - Nova Depot Planned Commercial Development ("Restated MDA"), recorded at Book 6929, Page 3542, Public Records of Volusia County, Florida, as amended by The First Amendment to the Restated First Amendment to the Master Development Agreement - Nova Depot Planned Commercial Development ("First Amendment"), recorded at Book 7547, Page 976, Public Records of Volusia County, Florida; and

WHEREAS, the Lot 2A Property is the only property impacted by this Second Amendment to the Restated MDA; and

WHEREAS, Owner proposes to amend the Agreement as set forth herein in order to clarify the allowable uses for Owners' Property; and

WHEREAS, the City is willing to grant Owner's request, subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to amend the Agreement as follows:

Section 5.(b) of the Restated MDA is amended as follows: [additions shown in <u>UNDERLINE</u>, deletions shown in ~~STRIKETHROUGH~~]

(b) Commercial category.

(1) Banks.
(2) Health/exercise clubs*.
(3) Office supplies.
(4) Office/warehouse facilities*[1]
(5) Personal services.
(6) Restaurants.
(7) Retail sales and service.
<u>(8) Motor vehicle service center (Lot 2A only).</u>

[1] Upon recording of this First Amendment to the Nova Depot Planned Commercial Development, office/warehouse shall by operation of law be deleted as a permitted use.

NO OTHER MODIFICATIONS

Except as otherwise expressly provided for herein, the Agreement shall continue in full force and effect.

[Remainder of Page Intentionally Left Blank. Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have set their hands, this ____ day of _____, 2023.

Signed, sealed and delivered in the presence of:	**THE CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation**
_____ Witness 1	By: _____ Donald Burnette, Mayor
_____ Print Name of Witness 1	Attest: _____ Robin L. Fenwick, MMC, City Clerk
_____ Witness 2	Date: _____
_____ Print Name of Witness 2	

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [___] online notarization this _____ day of _____, 2023 by Donald O. Burnette, Mayor, and Robin L. Fenwick, City Clerk, both of the City of Port Orange, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

_____
Notary Public
Commission No: _____

Signed, sealed and delivered in the presence of:

THE MARTIN GRANTOR TRUST UNDER TRUST DATED OCTOBER 1, 2014

_____
Witness 1

_____
Print Name of Witness 1

_____
Larry C. Martin, Trustee

_____
Witness 2

_____
Print Name of Witness 2

Date: _____

[Corporate Seal]

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [___] online notarization this _____ day of _____, 2023, by **LARRY C. MARTIN, AS TRUSTEE OF THE MARTIN GRANTOR TRUST**, referred to in this agreement as "Owner." He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

_____
Notary Public
Commission No. _____

Approved as to legal form:

By: _____
Shannon K. Balmer, Assistant City Attorney

EXHIBIT A

Legal Description of the Property

THE NORTHERLY ONE-HALF (1/2) OF THE EASTERLY ONE-HALF (1/2) OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, EXCEPT THAT PART NOW IN NOVA ROAD S.R. NO. 5, AS RECORDED IN DEED BOOK "M", PAGE 187, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH THE FOLLOWING DESCRIBED LAND:

THE SOUTHERLY ONE-HALF (1/2) OF THE EASTERLY ONE-HALF (1/2) OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, EXCEPT THAT PART NOW IN NOVA ROAD S.R. NO. 5, AS RECORDED IN DEED BOOK "M", PAGE 187, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

LESS AND EXCEPT THE FOLLOWING DESCRIBED LAND:

A PORTION OF THE EASTERLY 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK M, PAGE 187, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE WESTERLY LINE OF THE EASTERLY 1/2 OF SAID LOT 1, BLOCK 25 WITH THE SOUTHERLY RIGHT OF WAY LINE OF SAMMS AVENUE, A 30 FOOT WIDE RIGHT OF WAY, PER SAID MAP OF DUNLAWTON; THENCE RUN N65°15'21"E, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 220.57 FEET TO THE WESTERLY RIGHT OF WAY LINE OF NOVA ROAD; THENCE S69°49'40"E, ALONG SAID WESTERLY RIGHT OF WAY LINE, 14.16 FEET TO A POINT THAT IS 10.00 FEET SOUTHERLY OF SAID SOUTHERLY RIGHT OF WAY LINE OF SAMMS AVENUE AS MEASURED PERPENDICULAR TO SAID SOUTHERLY RIGHT OF WAY LINE; THENCE S65°15'21"W, PARALLEL WITH SAID SOUTHERLY RIGHT OF WAY LINE, 230.50 FEET TO THE WESTERLY LINE OF THE EASTERLY 1/2 OF SAID LOT 1; THENCE N25°19'48"W, ALONG SAID WESTERLY LINE, 10.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED LAND:

A PORTION OF THE EAST 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187, AND RE-RECORDED AS A TRUE COPY IN MAP BOOK 14, PAGES 82 AND 83 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 37, TOWNSHIP 33 SOUTH, RANGE 33 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF SAID LOT 1, BLOCK 25, MAP OF DUNLAWTON; THENCE RUN N25°19'48"W ALONG THE WEST LINE OF SAID EAST 1/2, A DISTANCE OF 445.10 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE N25°19'48"W, 191.01 FEET TO THE SOUTH RIGHT OF WAY LINE OF SAMMS AVENUE AS DESCRIBED IN OFFICIAL RECORDS BOOK 6896, PAGE 225, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE N65°15'21"E ALONG SAID SOUTH RIGHT OF WAY LINE, 230.50 FEET TO THE WEST RIGHT OF WAY LINE OF NOVA ROAD; THENCE S69°49'40"E ALONG SAID WEST

RIGHT OF WAY LINE, 16.11 FEET; THENCE CONTINUE ALONG SAID WEST RIGHT OF WAY LINE S26°00'33"E, 179.67 FEET; THENCE S65°15'21"W, 243.92 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED LAND:

A PORTION OF THE EAST 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187, AND RE-RECORDED AS A TRUE COPY IN MAP BOOK 14, PAGES 82 AND 83 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 37, TOWNSHIP 16 SOUTH, RANGE 33 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF SAID LOT 1, BLOCK 25, MAP OF DUNLAWTON; THENCE RUN N25°19'48"W ALONG THE WEST LINE OF SAID EAST 1/2, A DISTANCE OF 141.02 FEET; THENCE N65°37'159"E, 247.57 FEET TO THE WEST RIGHT OF WAY LINE OF NOVA ROAD; THENCE ALONG SAID WEST RIGHT OF WAY LINE S26°00'33"E, 141.06 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE S65°37'59"W, 249.24 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED LAND:

A PORTION OF THE EAST 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187, AND RE-RECORDED AS A TRUE COPY IN MAP BOOK 14, PAGES 82 AND 83 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 37, TOWNSHIP 16 SOUTH, RANGE 33 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF SAID LOT 1, BLOCK 25, MAP OF DUNLAWTON; THENCE RUN N25°19'48"W ALONG THE WEST LINE OF SAID EAST 1/2, A DISTANCE OF 259.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE N25°19'48"W, 185.85 FEET; THENCE N65°15'21"E, 243.92 FEET TO THE WEST RIGHT OF WAY LINE OF NOVA ROAD; THENCE S26°00'33"E ALONG SAID WEST RIGHT OF WAY LINE, 180.45 FEET; THENCE S63°59'22"W, 246.06 FEET TO THE POINT OF BEGINNING.

SAID PROPERTY ALSO DESCRIBED AS:

A PORTION OF THE EAST 1/2 OF LOT 1, BLOCK 25, MAP OF DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187, AND RE-RECORDED AS A TRUE COPY IN MAP BOOK 14, PAGES 82 AND 83 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 37, TOWNSHIP 16 SOUTH, RANGE 33 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF SAID LOT 1, BLOCK 25, MAP OF DUNLAWTON; THENCE RUN N25°19'48"W ALONG THE WEST LINE OF SAID EAST 1/2, A DISTANCE OF 141.02 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE N25°19'48"W, 118.23 FEET; THENCE N63°59'22"E,

246.06 FEET TO THE WEST RIGHT OF WAY LINE OF NOVA ROAD; THENCE S26°00'33"E ALONG SAID WEST RIGHT OF WAY LINE, 125.32 FEET; THENCE S65°37'59"W, 247.57 FEET TO THE POINT OF BEGINNING.

Print Form

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:
Ordinance No. 2023-17 - Second Amendment to Restated First Amendment to the Master Development Agreement for Nova Depot Planned Commercial Development

This Business Impact Estimate is provided in accordance with Section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is **not** required by state law[1] for the proposed ordinance, but the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The proposed ordinance relates to procurement; or
- ☑ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
  c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
  d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

[1] See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):
The proposed ordinance (2023-17) is an PCD amendment to the Nova Depot Plan Master Development Agreement (MDA) is to add a motor vehicle service center as an allowed use on Lot 2A in the PCD. Lot 2A of the Nova Depot PCD is located on the west side of Nova Road, south of Samms Avenue. The ordinance will not impact public health, safety, and welfare. Any development on Lot 2A must meet the standard commercial site requirements (landscape buffers, screening, tree preservation, architecture, traffic concurrency, drainage and other infrastructure, parking, etc.) of the City's Land Development Code and the Nova Depot MDA

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

(a) An estimate of direct compliance costs that businesses may reasonably incur:

No direct compliance cost to businesses are estimated by Ordinance 2023-17

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible:
No new charges or fees to businesses or for which businesses will be financially responsible are estimated by Ordinance 2023-17

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:
No new regulatory cost, including revenues from any new charges or fees to cover such cost to businesses, are estimated by Ordinance 2023-17

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:
No businesses are estimated to be impacted by Ordinance 2023-17

4. Additional information the governing body deems useful[2] (if any):

N/A

[2] *You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: City staff solicited comments from businesses in the City as to the potential impact of the proposed ordinance by contacting the local Chamber of Commerce, social media posting, direct mail or direct email, posting on City website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses.*

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/14/2023

SUBJECT: (H19) First Reading - Ordinance No. 2023-18 - Land Development Code Amendment/Chapters 2, 3, 9, and 10 - Code Clean-Up Amendment (CASE NO.: DCAM-23-0002)

DEPARTMENT: Community Development

GOAL: 6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve Ordinance No. 2023-18.

SUMMARY: Planning Commission Action (10/26/23): Recommended approval (6-0)

Over the past several years, staff has been updating the Land Development Code (LDC) in phases. Prior amendments included updates to sign regulations, erosion control, floodplain management, updates to Building Code references, county-wide Traffic Impact Analysis standards, school concurrency, Construction Standards modifications, site plan, and subdivision regulations, removal of select uses from the Ridgewood Corridor zoning district, zero lot line homes in the R-2D zoning district, microbreweries, architecture requirements, economic development – Ridgewood targeted businesses, tree preservation, and others.

The proposed amendments are intended to improve and update the content of the existing code as part of an ongoing maintenance effort. The proposed amendments include clarifications and minor changes that are simple clean-up items that make the code more efficient to use, update information, or address problems or issues encountered when applying the code.

Major Development (CHAPTER 3): The proposed amendment clarifies that a Master Development Agreement and Conceptual Development Plan (CDP) proposed for the Planned Community—Agricultural (PC-A) or Planned Community—Port Orange Riverwalk (PC-R) zoning districts and an amendment to an approved MDA and CDP, as well as the currently listed Planned Unit Development (PUD) or Planned Commercial Development (PCD) districts, is a major development. A major development is a development application that goes through the Staff Development Review Committee (SDRC) process and the public hearing process. A previously approved amendment allowed an MDA and CDP to be approved by the City Council for property zoned PC-A or PC-R, but it was not added to the list of development applications required to go through the public hearing process located in Chapter 3 of the LDC. The proposed amendment does not change the development applications that go before the Planning

Commission and City Council; it just lists them in one location of the LDC.

Resubmittal Timeframes for Development Applications (CHAPTER 3): The proposed amendment would extend the number of days allowed for resubmittal of development applications back to the City. Based on feedback from professional engineering firms that frequently submit development applications to the City for review, the current resubmittal timeframes do not provide sufficient time to revise plans to address technical comments, especially if additional survey work, data analysis, or plans are required to be prepared or provided by other disciplines (Traffic Engineer, Surveyor, Biologist, Architects, etc.).

Currently, the LDC allows a 60-day resubmittal timeframe to address comments provided at the SDRC meeting, and any resubmittal after the initial resubmittal must be made to the City within 30 days of receiving a comment letter. The proposed amendment would allow a 120-day resubmittal timeframe after an SDRC meeting, and any resubmittal after the initial resubmittal must be made to the City within 60 days of receiving a comment letter. Staff surveyed other cities within Volusia County, and the proposed number of days to resubmit is generally consistent with timeframes used by others.

Staff Development Review Committee (CHAPTER 3): The LDC currently establishes the requirements for meetings and membership of the Staff Development Review Committee (SDRC). The SDRC consists of city staff from various city divisions or departments that provide technical reviews for development applications (site plans, subdivisions, amendments to a PUD or PCD, or a new PUD or PCD) to ensure compliance with the LDC, Code of Ordinances, Florida Building Code, and County-wide minimum standards. Due to the recent reorganization of city divisions and departments, the proposed amendment clarifies what constitutes a quorum of the SDRC, updates the divisions and departments that make up the SDRC, and ensures the necessary city departments and divisions provide technical review of development applications and are present at SDRC Meetings.

Minor Engineering Permit (MEP) & Consolidation of Permits - (CHAPTERS 2, 9, AND 10): The LDC currently includes a reference to a Change of Grade Permit. According to the LDC, a Change of Grade Permit is to be used to permit the regrading of a site. The proposed amendment renames the Change of Grade Permit as a Minor Engineering Permit (MEP) and establishes the work that can be approved under an MEP. An MEP can be used to permit limited site work other than site grading; it can be used for minor site work such as limited clearing and grubbing, filling and excavation, sidewalks, driveways, pavement repairs or overlays, minor drainage improvements (addition of or repair to swale, repair to berms, pipes, culverts, etc.), ADA parking improvements, and other minor site work that does not require a Site Plan. A MEP application requires the submittal of a survey, engineered design plans, and other construction details as appropriate based on the scope of work. There have been requests for this type of permit, specifically related to redevelopment projects on the City's east side, so businesses can make minor improvements on sites without the full expense of having a Site Plan prepared.

The LDC includes a reference to a Stormwater Management Permit and a Wetlands Alteration Permit. In a review of past development permits submitted over the last 20

years, there is no record of a Stormwater Management Permit or Wetlands Alteration Permit being submitted or issued by the City. The review of a stormwater management system or alterations of wetlands has historically been reviewed as part of a development permit for a site plan or subdivision, not a separate stand-alone permit. To be in line with the current practice of permitting stormwater systems and alterations of wetlands, the proposed amendment states that these activities are to be reviewed and approved through a site plan or subdivision development application, which the SDRC reviews for compliance with all applicable codes. The proposed amendment does include language that a Minor Engineering Permit could be submitted if there is a need to review the design of a stormwater system or alterations of wetlands that are not associated with a site plan or subdivision development application. The proposed amendment does not change any current development requirements in the LDC related to permitting a stormwater management system or alternations to wetlands.

PRESENTER: Penelope Cruz, Tim Burman

ATTACHMENTS:

1.	Ordinance No. 2023-18	Ordinance No. 2023-18.pdf
2.	STAFF REPORT	STAFF REPORT.pdf
3.	Ord. 2023-18 Business Impact Estimate	Ord. 2023-18 Business Impact Estimate.pdf

Penelope Cruz	Created/Initiated - 10/27/2023
Tim Burman	Approved - 10/27/2023
Shannon Balmer	Approved - 11/2/2023
Wayne Clark	Approved - 11/8/2023
Tracee Cody	Final Approval - 11/9/2023

ORDINANCE NO. 2023-18

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE CHAPTERS 2, 3, 9, AND 10 RELATING TO DEFINITIONS AND INTERPRETATIONS, CLAIRFYING DEVELOPMENT APPLICATIONS CONSIDERED TO BE MAJOR DEVELOPMENTS; ADJUSTING RESUBMITTAL TIMEFRAMES; CLARIFYING REQUIREMENTS FOR MEETINGS AND MEMEBERSHIP OF STAFF DEVELOPMENT REVIEW COMMITTEE (SDRC); RENAMING CHANGE OF GRADE PERMIT TO MINOR ENGINEERING PERMIT AND CLARIFYING WHAT IS INCLUDED; REMOVING OUTDATED REFERENCES TO STORMWATER MANAGEMENT PERMIT AND WETLANDS ALTERATION PERMIT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the proposed amendments are necessary to improve the content of the existing Land Development Code ("Code") as part of an ongoing maintenance effort to make the Code and the development review process more efficient in its application as well as updated to respond to the current conditions in the community; and

WHEREAS, the Planning Commission has recommended amendments to the Land Development Code; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1: The City Council of the City of Port Orange hereby amends Chapter 2, Section 2 of the Land Development Code, to read as follows:

Chapter 2 - DEFINITIONS AND INTERPRETATIONS

Section 2: - Definitions.

Minor Engineering Permit. An application for minor site work such as clearing and grubbing, filling and excavation, sidewalks, driveways, pavement repairs or overlays, minor drainage improvements, and other minor site work that is not otherwise incorporated into a Building Permit or Site Construction Permit.

SECTION 2: The City Council of the City of Port Orange hereby amends Chapter 3 of the Land Development Code, to read as follows:

Chapter 3 – ADMINISTRATION

ARTICLE I: - CODE ADMINISTRATION

[No changes to Section 1 and 2]

Section 3: - Development plan review process.

(a) *Designation of plans as major or minor development*. For purposes of review and approval under this code, all plans shall be designated as minor development or major development as outlined below.

~~(1)~~ *Major development*. A development plan shall be designated as a major development if it meets one or more of the following criteria:

(a) The plan includes the final plat for the subdivision of land.
(b) The plan is ~~a required conceptual plan~~ for the rezoning to ~~GPU,~~ PUD or PCD district and the establishment of a new Master Development Agreement (MDA) and Conceptual Development Plan (CDP), the establishment of a new MDA and CDP in the PC-A or PC-R district, an amendment to an approved MDA or CDP, or is so deemed a major development in ~~the~~ an ~~existing~~ approved MDA ~~of the PUD or PCD~~.
(c) The plan is part of a larger development proposal or poses special development issues that require the additional review of a major development, as determined by the administrative official.

~~(2)~~ *Minor development*. A development plan shall be designated as a minor development if it fails to meet the criteria for major development and is not exempt from the requirement for a development order under section 2(b) above.

(b) *Pre-application conference*. Prior to submitting a development review application, the applicant shall meet with the administrative official or his/her designee(s), in order to verify the steps necessary for application and review and discuss potential issues regarding the development proposal. Comments made at the pre-application conference are intended to provide guidance and are nonbinding on the formal review of the development plans, except that an applicant may request a written confirmation of the designation of the proposal as a major or minor development.

(c) *Application for development plan review*. Applications for development plan review shall be made to the department utilizing the form provided by the department for that purpose, and accompanied by the appropriate review fee, as adopted by resolution of the city council. Application shall be accompanied by the appropriate number of proposed plans, as determined by the administrative official based upon the size and scope of the proposed development. Plans shall be signed and sealed by a registered engineer, architect, landscape architect, where required by this code. Plans shall be prepared according to the standards of this code.

~~(1)~~*Review of application materials*. Within two working days of the receipt of an application, the department shall determine whether the submittal is complete. Incomplete submittals shall be returned to the applicant with the deficiencies noted in writing. ~~Re-application shall be accompanied by a re-application fee as adopted by resolution of the city council.~~

~~(2)~~*Initiation of development review*. Once a completed application is submitted, it shall be scheduled for the next staff development review committee (SDRC) meeting, but no earlier than one week from the date that the application is deemed complete. The administrative official may waive the required SDRC meeting for certain development applications based on the size and scope of the proposed development.

(d) *Development review process*.

~~(1)~~ *Staff development review committee (SDRC)*. All applications for MDA amendments, site plans, subdivisions, and the rezoning of property to PUD or PCD districts shall be reviewed by the SDRC, and members' comments shall be delivered and discussed at a regularly scheduled meeting. Formal comments of the SDRC shall be transmitted in writing to the applicant no later than three working days after the meeting.

~~(2)~~ *Minor development review*. Minor development projects may resubmit plans in response to the SDRC comments no later than ~~60~~120 calendar days after the original SDRC meeting review, or, unless otherwise extended in accordance with this section, the project shall be considered withdrawn. The resubmitted plans shall be reviewed by the appropriate SDRC members, based on the original findings, within ten working days of resubmittal. Based on the outcome of this second review, the administrative official shall take one of the following actions within 15 working days of resubmittal:

(a) If previous comments were not addressed, or the plan modifications result in additional code discrepancies, such comments shall be transmitted along with a reasonable deadline for resubmission based on the number and magnitude of outstanding issues. However, in no case shall resubmittal be accepted more than ~~30~~60 calendar days after the transmittal of comments, or, unless otherwise extended in accordance with this section, the project shall be considered withdrawn.

(b) If all comments are satisfactorily addressed, a development order shall be issued.

~~(3)~~ *Major development review*. Major development projects may resubmit plans in response to SDRC comments no later than ~~60~~120 calendar days after the original SDRC meeting review, or the project shall be considered withdrawn. The plans shall be reviewed by the appropriate SDRC members, based on the original findings, within ten working days of resubmittal. Based on the outcome of this second review, the administrative official shall take one of the following actions within 15 working days of resubmittal:

(a) If previous comments were not addressed, or the plan modifications result in additional code discrepancies, such comments shall be transmitted along with a reasonable deadline for resubmission based on the number and magnitude of outstanding issues. However, in no case shall resubmittal be accepted more than 60 calendar days after the transmittal of comments.

(b) If ~~O~~only ~~projects with~~ minor outstanding technical and procedural comments remain, then the project shall be submitted by the department to the planning commission for consideration.

(~~a~~1) *Planning commission action*. The planning commission shall consider the development plans at a regularly scheduled meeting

and determine if they meet the requirements of this code. The applicant or an authorized agent thereof shall be present at the time of consideration by the planning commission. Upon consideration of the comments of the SDRC and public, the commission shall take one of the following actions:

(~~1~~a) Table or continue the consideration of the project until their next regularly scheduled meeting to allow for the resolution of outstanding issues.

(~~2~~b) Recommend that the proposed development plan be denied.

(~~3~~c) Recommend that the proposed development plan be approved.

(~~4~~d) Recommend that the proposed development plan be approved with conditions.

(~~5~~e) Approve or deny the proposed development plans in which the planning commission has final authority.

(~~b~~2) *City council approval*. The city council shall consider the development plans at a regularly scheduled meeting and determine if they meet the requirements of this code. Upon consideration of the comments of the department and public, and the recommendation of the planning commission, the city council shall take one of the following actions:

(~~1~~a) Table or continue the consideration of the proposed development plan to allow for the resolution of outstanding issues.

(~~2~~b) Deny the proposed development plan.

(~~3~~c) Approve the proposed development plan.

(~~4~~d) Approve the proposed development plan with conditions. Revised plans reflecting conditions of city council approval shall be submitted to the department within 30 days of the conditional approval. Plans and/or documents shall be reviewed by the department within ten

working days of resubmittal to determine compliance with those conditions.

(~~5~~e) Refer the proposed development plan back to the planning commission for further review and recommendation based on new or additional information or circumstances.

(~~c~~3) *Issuance of development order*. The department shall issue a development order within five working days of unconditional city council approval, or verification that city council conditions for approval have been met.

(e) *Failure to provide timely plan resubmission*. Failure to meet any of the resubmission deadlines cited above shall require applicant to pay ~~late~~extension fees or file a new application including the appropriate review fees, whichever is deemed applicable by the administrative official when considering the amount of time elapsed, whether a change in scope is proposed for the project, or whether any unforeseeable events have caused delay.

~~(1)~~(f) *Extension of resubmittal deadlines*. The administrative official may extend the deadlines cited above upon request when warranted by unforeseeable events. A request for extension shall be filed in writing with the department, accompanied by the appropriate fee, as adopted by resolution of the city council, explaining the circumstances justifying the extension. An applicant may request a maximum of (2) two 60 calendar day extensions. Additional extensions beyond the two provided for herein may be considered by the administrative official if warranted due to unforeseeable events.

(~~f~~g) *Abated application*. An application shall be abated when the applicant fails to resolve pending conditions for the issuance of a development order for six consecutive months from the date of the last official written communication from community development to the applicant. The administrative official shall issue a notice of abated application to the applicant which shall include reference to the abandoned application provision, set forth in subsection (~~g~~h) of this section. Any submittal after the issuance of a notice of abated application shall require applicant to pay a resubmittal fee. Any submittal after the issuance of the notice of abated application shall comply with any amendments to this code or any other applicable federal or state law or regulation subsequent to the last review of the application.

(~~g~~h) *Abandoned application*. An application shall be considered abandoned when the applicant fails to resolve pending conditions for the issuance of a development order for an additional six consecutive months from the date of the notice of abated

application issued by community development to the applicant, in accordance with subsection (~~f~~g) of this section. The administrative official shall issue a notice of abandoned application to the applicant. Any submittal after the issuance of the notice of abandoned application shall constitute a new application and shall include the appropriate review fees.

[No changes to the remaining Sections 4 through 7.3]

[No changes to Article II]

Article III – BOARDS AND COMMISSIONS ZONING DISTRICT REGULATIONS

Section 9: - Staff development review committee (SDRC).

There is hereby created the staff development review committee (SDRC) to provide technical review for all applications for development approval and grant final approval for development plans when authorized by this code.

(a) *Meetings*. The SDRC shall hold regularly scheduled meetings at least once a month unless there are no applications requiring review at that time. A schedule of regular meetings shall be made available in the department. A special meeting may be called by the ~~chairman~~chairperson to allow extra time for the review of large or complex applications that have been submitted by the appropriate deadline for the next regularly scheduled meeting. SDRC meetings shall be open to all interested persons for the review of formal development applications.

(1) *Quorum*. A quorum of the SDRC, necessary to conduct any business, shall consist of three members.

(2) *Minutes*. The SDRC shall keep minutes of all its meetings, as required by law. The minutes shall record the attendance of its members and shall be a public record.

(b) *Membership and organization*. The SDRC shall be chaired by the administrative official or his/her designated representative. In addition to the chairperson, ~~T~~the SDRC shall be composed of representatives from the following city departments or divisions: ~~building, engineering,~~ the planning division~~, public utilities,~~ and the city attorney's office. When ~~deemed appropriate~~ required by the administrative official or his/her designated representative, the SDRC may expand to include ~~the following~~ review by other city departments or divisions. ~~: risk management, fire, police, and public~~ works. ~~The SDRC shall be chaired by the administrative official or his/her designated representative.~~

[No changes to the remaining Sections 10 through 12]

SECTION 3. The City Council of the City of Port Orange hereby amends Chapter 9 of the Land Development Code, to read as follows:

Chapter 9 - ENVIRONMENTAL PROTECTION

ARTICLE I: - WETLANDS PROTECTION

[No changes to Section 1]

Section 2: - Permit requirements for wetland alteration.

It is hereby unlawful for any person to engage in any activity which will remove, fill, drain, dredge, clear, destroy, or alter any wetland or buffer, without obtaining a ~~wetlands alteration~~minor engineering permit or a development plan approval.

[No changes to subsections (a) and (b)]

(c) *Permit issuance*. All permits shall be deemed to incorporate the general and specific conditions of permits issued by federal, state or regional agencies that are within the substantive purview of this article. Where such permits are deemed to completely address the requirements of this article, there may be no additional conditions placed by the city. ~~The city may withhold issuance of a city permit until any or all such other permits are issued.~~ Issuance of a development permit pursuant to a development order shall be considered to include the issuance of the related wetlands alteration ~~permit~~.

On applications not tied to development projects requiring development plan approval, the city shall have two weeks to determine the sufficiency of the application. The applicant shall be notified in writing of any discrepancies in the application. Once a complete application is accepted, the city shall have 30 days to review the application, and to approve, approve with conditions, or disapprove the permit.

Section 3: - Wetlands protection standards.
Application for a ~~wetlands alteration~~minor engineering permit shall meet the following wetlands protection standards:

[No changes to subsections (a) through (d)]

[No changes to the remaining Sections 4 thru 8]

ARTICLE II: - TREE PRESERVATION

[No changes to Sections 9 and 9.5]

Section 10: Permit requirements for tree removal.

[No changes to subsection (a)]

(b) It is hereby unlawful for any person to change or modify the grade of any land without obtaining a ~~change of grade~~minor engineering permit in accordance with the provisions of chapter 10, article I. Where both clearing and changing of grades are proposed, the permit requirements of chapter 10, article I shall apply, in addition to the standards of this article.

[No changes to the remaining subsection (c) and (d)]

[No changes to the remaining Sections 11 through 22.6]

ARTICLE III: - SHORELINE PROTECTION REGULATIONS

[No changes to Sections 23 through 25]

Section 26: - General shoreline development standards.

(a) New development or substantial improvements to existing development at a shoreline shall apply for a ~~wetlands alteration~~ permit from the city and receive approval of this application from the administrative official.

[No changes to subsection (b)]

[No changes to the remaining Sections 27 through 30]

SECTION 4. The City Council of the City of Port Orange hereby amends Chapter 10 of the Land Development Code, to read as follows:

Chapter 10 - CLEARING, GRADING, AND STORMWATER

ARTICLE I: - CLEARING AND GRADING

[No changes to Section 1]

Section 2: - Permit requirements for change of grade.

It is hereby unlawful for any person to change or modify the grade of any land

without obtaining a ~~change of grade~~minor engineering permit in accordance with the provisions of this chapter or development plan approval, as appropriate. The following procedure shall apply for unsubdivided property or subdivided lots with no approved development or building plan. However, the provisions of article II of this chapter shall supersede the following for those activities requiring a ~~stormwater management~~minor engineering permit or development plan as reflected in article II of this chapter.

[No changes to subsections (a) and (b)]

[No changes to Sections 3 and 4]

Section 5: - Required erosion and sediment control measures.

[No changes to introductory text or subsections (a) through (c)]

(d) *Design requirements*. Erosion and sediment control plans (ESCPs) shall be designed according to the following provisions:

(1)Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria as set forth in the ~~2006~~latest edition~~, as updated from time to time,~~ of the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual, available from the Florida Department of Environmental Protection, and the city's standard construction details. The ESCP shall be adequate to prevent transportation of sediment from the site to the satisfaction of the city. Cut and fill slopes shall not exceed a 4:1 slope ratio, except as approved by the city to meet other community or environmental objectives.

[No changes to subsections (2) through (8)]

[No changes to Sections 6 and 7]

ARTICLE II: - STORMWATER MANAGEMENT

[No changes to Section 8]

Section 9: - Prohibitions and exemptions.

(a) *Prohibitions*. No person may develop or make any change in the use of land or construct a structure or change the size of a structure, except as exempted herein, without first obtaining a ~~stormwater management~~development permit as provided herein. For the purpose of this article, the following development may potentially alter or disrupt existing stormwater runoff patterns, and as such, will, unless exempted below, require a permit prior to the commencement of construction:

[No changes to the remainder of subsection (a) and subsection (b)]

Section 10: - Stormwater management ~~permit~~ review.

An application for a ~~stormwater management~~minor engineering permit shall be filed, processed and approved in the following manner:

[No changes to subsections (a) and (b)]

(c) *~~Stormwater~~Minor engineering permit application and review*. Application shall be made directly to the department.

[No changes to subsections (1) through (3)]

[No changes to Section 11]

Section 12: - Issuance of development permits.

Upon notification by the city of the determination of the SDRC, the department will immediately notify the applicant of that determination.

(a) *Issuance of ~~stormwater management~~development permit*. Upon the satisfaction of any approval conditions, and presentation of any other required county, regional, state, or federal agency permits required for the proposed construction, the department shall issue the ~~stormwater management~~ development permit.

[No changes to subsection (b)]

[No changes to Section 13]

Section 14: - Enforcement.

Any changes or amendments to the approved plans must be approved by the department. If the completed development appears to deviate from the approved plans the department may require the developer to submit as-built plans of the completed project. In consideration of the city's review and approval of plans, the owner or his agent shall grant city inspectors inspection rights and right-of-entry privileges in order to ~~insure~~ensure compliance with the requirements of this article.

[No changes to subsections (a) and (b)]

[No changes to Section 15]

ARTICLE III: - ILLICIT CONNECTIONS AND DISCHARGES TO THE CITY'S

SEPARATE STORM SEWER SYSTEM (MS4)

[No changes to Sections 16 through 24]

Section 25: - Notification of spills.

[No changes to subsections (a) and (b)]

(c) In the event of a release of nonhazardous materials, and in addition to all other legally required notices, the person shall notify the city's department designated by the City Manager ~~of community development in person or by phone or facsimile~~ in writing no later than the next business day. ~~Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city's department Of community development within three business days of the phone notice.~~

[No changes to subsections (d) or (e)]

Section 26: - Violations, enforcement and penalties.

[No changes to subsections (a) through (c)]

(d) *Immediate suspension due to illicit discharges in emergency situations*. The city's ~~community development engineer~~ department designated by the City Manager shall, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, watercourses, or receiving waters. If the violator fails to comply with a suspension order issued in an emergency, the city shall take such further steps as deemed necessary to prevent or minimize damage to the MS4, watercourses or receiving waters, or to minimize danger to persons, with all costs and expenses thereof borne by the violator.

[No changes to subsection (e)]

[No changes to the remaining Sections 26 through 32]

SECTION 5: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 6. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 7. The provisions of this Ordinance shall become and be made a part of the Land Development Code of the City of Port Orange and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 8. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 9. This Ordinance shall take effect immediately upon adoption.

_____
MAYOR DONALD O. BURNETTE

ATTEST:

_____
Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of

Passed and adopted on second and final reading on the day of

Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney

STAFF REPORT

CASE NO. DCAM-23-0002

LDC Amendment/Chapters 2, 3, 9, and 10

REQUEST:	To amend Chapters 2, 3, 9, and 10 of the Land Development Code (LDC) that include clarifications and minor changes that are simple clean-up items that make the development review process more efficient.
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
PLANNING COMMISSION:	Recommend Approval 6-0 (October 26, 2023)
CITY COUNCIL:	November 14, 2023

INTRODUCTION

Over the past several years, staff has been updating the Land Development Code (LDC) in phases. Prior amendments included updates to sign regulations, erosion control, floodplain management, updates to Building Code references, county-wide Traffic Impact Analysis standards, school concurrency, Construction Standards modifications, site plan, and subdivision regulations, removal of select uses from the Ridgewood Corridor zoning district, zero lot line homes in the R-2D zoning district, microbreweries, architecture requirements, economic development – Ridgewood targeted businesses, tree preservation, and others.

SUMMARY OF PROPOSED AMENDMENT

The proposed amendments are intended to improve and update the content of the existing code as part of an ongoing maintenance effort. The proposed amendments include clarifications and minor changes that are simple clean-up items that make the code more efficient to use, update information, or address problems or issues encountered when applying the code.

AMENDMENT #1: DEVELOPMENT REVIEW PROCESS (CHAPTER 3)

Major Development: The proposed amendment clarifies that a Master Development Agreement and Conceptual Development Plan (CDP) proposed for the Planned Community—Agricultural (PC-A) or Planned Community—Port Orange Riverwalk (PC-R) zoning districts and an amendment to an approved MDA and CDP, as well as the currently listed Planned Unit Development (PUD) or Planned Commercial Development (PCD) districts, is a major development. A major development is a development application that goes through the Staff Development Review Committee (SDRC) process and then through the public hearing process. A previously approved amendment allowed an MDA and CDP to be approved by the City Council for property zoned PC-A or PC-R, but it was not added to the list of development applications required to go through the public hearing process located in Chapter 3 of the LDC. The proposed amendment does not change

the development applications that go before the Planning Commission and City Council; it just codifies the development applications required to go before the Planning Commission and City Council in one location of the LDC.

Resubmittal Timeframes: The proposed amendment would extend the timeframes or number of days an applicant for a development applicant has to resubmit their application back to the city. Based on feedback from professional engineering firms that frequently submit development applications through the City's development review process, the current resubmittal timeframes do not adequately provide sufficient time to revise plans to address technical comments, especially if additional survey work or data analysis is required by other disciplines (Traffic Engineering, Biologist, Architects, etc.). Currently, the LDC allows a 60-day resubmittal timeframe to address comments provided at the SDRC meeting. Any resubmittal after the initial resubmittal must be made within 30 days of receiving the resubmittal comment letter. The proposed amendment would allow for a 120-day resubmittal timeframe after the initial application submittal and SDRC meeting technical comments are provided and a 60-day resubmittal timeframe for any resubmittal required after the initial resubmittal. The amendment also clarifies that the resubmittal timeframes are calendar days, and a project is considered withdrawn if the resubmittal deadline is not met without a written extension request. The proposed amendment also adds a limit of two (2) resubmittal deadline extensions but maintains language to approve additional extensions if warranted due to unforeseeable events. There is no change to the 60-day timeframe for each extension. Staff surveyed other cities within the County, and the proposed resubmittal deadlines are generally consistent with timeframes used by others.

Staff Development Review Committee: The LDC currently establishes the requirements for meetings and membership of the Staff Development Review Committee (SDRC). The SDRC consists of city staff from various city divisions or departments that provide technical reviews for development applications (site plans, subdivisions, amendments to a PUD or PCD, or a new PUD or PCD) to ensure compliance with the Land Development Code, Code of Ordinances, Florida Building Code, and County-wide minimum standards.

Due to the recent reorganization of City divisions and departments, the proposed amendment clarifies what constitutes a quorum of the SDRC, updates the divisions and departments that make up the SDRC, and ensures the necessary city departments and divisions provide technical review of development applications and are present at SDRC Meetings.

AMENDMENT #2: MINOR ENGINEERING PERMIT (CHAPTERS 2, 9 AND 10)

Minor Engineering Permit (MEP): The LDC currently includes a reference to a Change of Grade Permit. According to the LDC, a Change of Grade Permit is limited to regrading a site. The proposed amendment renames the Change of Grade Permit as a Minor Engineering Permit (MEP) and establishes the work that can be approved under an MEP. An MEP can be used to permit limited site work other than site grading; it can be used for minor site work such as limited clearing and grubbing, filling and excavation, sidewalks, driveways, pavement repairs or overlays, minor drainage improvements (addition of or repair to swale, repair to berms, pipes, culverts, etc.), ADA parking improvements, and other minor site work that does not require a Site Plan. A MEP application requires the submittal of a survey, engineered design plans, and other construction details as

appropriate based on the scope of work. There have been requests for this type of permit, specifically related to redevelopment projects on the east side of the city, so businesses can make minor improvements on sites without the full expense of having a Site Plan prepared.

The LDC includes a reference to a Stormwater Management Permit and a Wetlands Alteration Permit. In a review of the past development permits submitted or approved over the last 20 years, there is no record of a Stormwater Management Permit or Wetlands Alteration Permit being received or issued by the city. The review of a stormwater management system or alterations of wetlands has historically been reviewed as part of a development permit for a site plan or subdivision, not a separate stand-alone permit. The proposed amendment does **not** change any current development requirements in the LDC related to permitting a stormwater management system or alternations to wetlands.

Therefore, to be in line with the current practice of permitting stormwater systems and alterations of wetlands, the proposed amendment states that these activities are addressed as part of the review for a site plan or subdivision development application, which the SDRC reviews for compliance with all applicable codes. The proposed amendment also includes language that a Minor Engineering Permit could be submitted if there is a need to review the design of a stormwater system or alterations of wetlands outside of a development application.

RECOMMENDATION

Approval of the amendments to Chapters 2, 3, 9, and 10 of the Land Development Code.

ATTACHMENT

Exhibit 1 – Proposed amendment to Chapters 2, 3, 9, and 10 of the Land Development Code (See Ordinance Exgibit)

Print Form

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:
Ordinance No. 2023-18 - LDC Amendment/Chapters 2, 3, 9, and 10 - Code Clean-Up Amendment

This Business Impact Estimate is provided in accordance with Section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is **not** required by state law[1] for the proposed ordinance, but the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The proposed ordinance relates to procurement; or
- ☑ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
  c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
  d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

[1] See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):
The proposed ordinance (2023-18) amends Chapters 2, 3, 9, and 10 of the Land Development Code (LDC) and is intended to improve and update the content of the existing code as part of an ongoing maintenance effort. The proposed amendments include clarifications and minor changes that are simple clean-up items that make the code more efficient to use, update the permitting process, or address issues encountered when applying the code.

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

(a) An estimate of direct compliance costs that businesses may reasonably incur:

No direct compliance cost to businesses are estimated by Ordinance 2023-18

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible:
No new charges or fees to businesses or for which businesses will be financially responsible are estimated by Ordinance 2023-18

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:
No new regulatory cost, including revenues from any new charges or fees to cover such cost to businesses, are estimated by Ordinance 2023-18

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:
No businesses are estimated to be impacted by Ordinance 2023-18

4. Additional information the governing body deems useful[2] (if any):

N/A

[2] *You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: City staff solicited comments from businesses in the City as to the potential impact of the proposed ordinance by contacting the local Chamber of Commerce, social media posting, direct mail or direct email, posting on City website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses.*