REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

NOVEMBER 6, 2024

AGENDA

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

A. OPENING

1. Invocation by Deacon Stephen Gross of Our Lady of Hope Catholic Church
2. Pledge of Allegiance
3. Roll Call
4. Storm Update

B. CITY COUNCIL & TOWN CENTER CRA JOINT SPECIAL MEETING

C. CONSENT AGENDA

5. Public Comments on Consent Agenda Items Only
6. Agenda Approval
7. Approval of Minutes
   a. Special Council Meeting - 10/7/2024
   b. Regular City Council Meeting - 10/15/2024
8. Bid Awards and Contract Items
   a. Approval of Task Authorization No. 18 with Kimley-Horn & Associates, Inc. relating to a Nutrient Loading Analysis required for compliance with the City's Municipal Separate Storm Sewer Systems (MS4 Permit)
9. Resolution No. 24-45 - Reimbursement Resolution for Public Safety and Public Works Equipment
10. City Attorney's Report on Special Legal Counsel for FY2025

D. PUBLIC PARTICIPATION (Agenda)

11. Cops for Christmas Program - Officer Wayne Jean

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

F. COUNCIL COMMENTS

12. Comments/Concerns from Council Members

G. BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

13. Environmental Advisory Board Report

H. PUBLIC HEARING

14. Second Reading - Ordinance No. 2024-18 - First Amendment to the Angler's Cove PUD Master Development Agreement (Case No. PRZA-24-0007)
15. Second Reading - Ordinance No. 2024-20 - Land Development Code (LDC) Amendment/Chapter 20 - Relating to Eligibility for Economic Development Incentives

I. REGULAR AGENDA

16. Second Reading - Ordinance No. 2024-21 - Amendment to Chapter 54, Article V, Police Pension Fund of the Code of Ordinances
17. Second Reading - Ordinance No. 2024-22 - Amendment to Chapter 54, Article IV, Fire & Rescue Pension Fund of the Code of Ordinances
18. First Reading - Ordinance No. 2024-24 - Amending Information Technology Policies for City Boards and Commissions

J. ADDITIONAL ITEMS

19. City Attorney
20. City Manager

K. COUNCIL COMMITTEE REPORTS

21. City Council Committee Reports
    a. River to Sea TPO - Councilman Jonathan Foley

L. 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.

SPECIAL CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
OCTOBER 7, 2024

THE SPECIAL CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Donald O. Burnette at 5:15 p.m.

Silent Invocation

Pledge of Allegiance

Roll Call	Present:	Councilman Tracy Grubbs Councilman Drew Bastian Mayor Don Burnette
	Absent:	Councilman Jonathan Foley Vice Mayor Scott Stiltner
	Also Present:	City Manager Wayne Clark City Attorney Matt Jones Deputy City Clerk Amanda Bonin

DISCUSSION / ACTION

4. Resolution No. 24-44 - Declaring a Local State of Emergency - Hurricane Milton

Matt Jones, City Attorney, read Resolution No. 24-44.

RESOLUTION NO. 24-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, DECLARING A STATE OF LOCAL EMERGENCY; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXERCISE EMERGENCY MANAGEMENT POWERS; RATIFYING ALL ACTIONS TAKEN IN PREPARATION FOR HURRICANE MILTON AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Resolution No. 24-44 was made by Councilman Drew Bastian and seconded by Councilman Tracy Grubbs. Motion carried unanimously by roll call vote.

ADJOURNMENT – 5:16 p.m.

Mayor Donald O. Burnette

Attest:

Robin Fenwick, MMC
City Clerk

TASK AUTHORIZATION NO. 18
Master Contract for Services dated January 18, 2022
Between the City of Port Orange, Florida and Kimley-Horn and Associates, 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 **KIMLEY-HORN AND ASSOCIATES, INC.**, North Carolina corporation, registered to transact business in Florida, with its principal place of business at 421 Fayetteville Street, Suite 600, Raleigh, North Carolina 27601 ("Engineer"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract relating to Professional Engineering Services for Public Works, Utilities and Environmental Services, as dated 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, Engineer shall provide services relating the Spruce Creek Pollutant Loading Analysis, as more particularly described in the Scope of Servicesattached hereto and incorporated herein as Task Authorization Exhibit "1."

3. Engineer shall complete the services to be provided herein within 365 days of the date ofwritten notice by the City to the Engineer.

4. In return for the services identified above, the City agrees to compensate Engineer at the prices set forth in Exhibit "1" attached hereto and made a part hereof, subject to a limit not to exceed **$54,000.00**. 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, Engineer 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 contractor 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 Engineer and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Engineer 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) Engineer'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 Engineer 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. 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 Engineer 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: **KIMLEY-HORN AND ASSOCIATES, INC.**

____

Printed Name:______________________________

By:____________________________________

Jonathan D. Thigpen, Senior Vice President

____

Printed Name:______________________________

Date:__________________________________

CITY OF PORT ORANGE

By:____
Donald O. Burnette, Mayor

Date:_______________________________________

ATTEST:

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

Date:_______________________________________

EXHIBIT "1"

Engineer's Quote

Consisting of 3 Pages

Kimley»Horn

PROPOSAL FOR CITY OF PORT ORANGE – SPRUCE CREEK POLLUTANT LOADING ANALYSIS

Describing a specific agreement between Kimley-Horn and Associates, Inc. (Kimley-Horn), and The City of Port Orange (the Client or the City) in accordance with the terms of the Master Agreement for Continuing Professional Services dated January 18, 2022, which is incorporated herein by reference.

Project Understanding

The scope of services and fees described herein are based upon the following assumptions and project understanding.

- The purpose of this project is to perform and document a pollutant loading analysis to determine the pollutant load discharged from the City of Port Orange into Spruce Creek.

- The scope of work was prepared following discussions with the City of Port Orange staff regarding the implementation plan by the City's TMDL Prioritization Plan (Rev. May 2022) and the contribution of pollutant loading to Spruce Creek (WBIDs) by the City of Port Orange.

- The City's TMDL Prioritization plan includes two WBIDs for Spruce Creek (WBIDs 2674 and 2674A). WBID 2674 has Total Nitrogen (TP), Total Phosphorus (TP), and Dissolved Oxygen (DO) as the listed pollutants. WBID 2674A has Fecal Coliform as the listed pollutants. The listed pollutants for each WBID will be the only pollutants evaluated for the corresponding WBIDS in this analysis.

- This project will evaluate point and nonpoint source pollutants for each WBID based on the WBID boundaries specified under the City's TMDL prioritization Plan. The extent of the WBID boundaries to be evaluated will be limited to the portions contained within the City of Port Orange limits.

Specific Scope of Basic Services:

<u>Task 1: Data Collection</u>

A. Kimley-Horn will collect available desktop data to determine the pollutant sources from the City of Port Orange and other contributing municipalities to Spruce Creek WBIDs 2674 and 2674A. This data will be gathered from the City to be evaluated.

B. Kimley-Horn will prepare Pollutant Source Exhibits detailing the point and nonpoint loading sources for the evaluated pollutants of WBID 2674 and 2674A for the affected extents of the City.

C. Kimley-Horn will meet with the City of Port Orange to review the Pollutant Source Exhibits. The City will provide feedback on the exhibits and corresponding data collected. Kimley-Horn will revise the Pollutant Source Exhibits one time based on this feedback.

<u>Task 2: Pollutant Loading Analysis</u>

A. Kimley-Horn will prepare a pollutant load analysis for the listed pollutants for WBIDs 2674 and 2674A. The evaluation of pollutant loads from point sources may include septic systems, reclaim water point sources, treatment plants, or other point sources based on feedback from the City. The evaluation of nonpoint sources will include assumed pollutant loadings based on available landuse data. When applicable, pollutant loading estimations will be based on methodology from the TMDL Reports for WBIDs 2674 and 2674A. Methodology to determine pollutant loading may differ between pollutants. Kimley-Horn will prepare a Pollutant Loading Exhibit for each WBID showing the assumed loading levels for each source and total loading into Spruce Creek from the corresponding portion of the WBID boundary within City of Port Orange limits.

Task 3: Technical Memorandum

A. Kimley-Horn will prepare a draft and a final technical memorandum with the findings and model results from Task 2 including a summary of the collected data, final exhibits from Tasks 1 and Task 2, and key takeaways from the Pollutant Loading Analysis. Kimley-Horn will meet with the City of Port Orange to review the draft technical memorandum and will update the draft technical memorandum one time based on City feedback to create a final technical memorandum.

Schedule:

Kimley-Horn will perform the services as expeditiously as practicable with the goal of meeting a mutually agreed upon schedule.

Deliverables:

Deliverables for this project include the following:

- Pollutant Source Exhibit
- Pollutant Loading Exhibit
- Draft Technical Memorandum
- Final Technical Memorandum

Method of Compensation:

Kimley-Horn will perform these services for the total lump sum fee of $54,000.00 inclusive of expenses. Invoices will be billed on a percent complete basis per task. A breakdown of the fee by task is as follows:

Task	*Description*	*Lump Sum*
1	Data Collection and Coordination	$19,000
2	GIS Based Pollutant Loading Model	$30,000
3	Technical Memorandum	$5,000
	Total	**$54,000**

Kimley»Horn

Other Special Terms:

Services provided under this agreement will be invoiced on a monthly basis. All invoices will include a description of services provided.

ACCEPTED:

CITY OF PORT ORANGE, FLORIDA	KIMLEY-HORN AND ASSOCIATES, INC.
BY: See Task Authorization No. 18 Page 4	BY: Ryan D. Wetherell Ryan Wetherell
TITLE:	TITLE: Senior Associate
DATE:	DATE: Oct 16, 2024

Kimley»Horn

PROPOSAL FOR CITY OF PORT ORANGE – SPRUCE CREEK POLLUTANT LOADING ANALYSIS

Describing a specific agreement between Kimley-Horn and Associates, Inc. (Kimley-Horn), and The City of Port Orange (the Client or the City) in accordance with the terms of the Master Agreement for Continuing Professional Services dated January 18, 2022, which is incorporated herein by reference.

Project Understanding

The scope of services and fees described herein are based upon the following assumptions and project understanding.

- The purpose of this project is to perform and document a pollutant loading analysis to determine the pollutant load discharged from the City of Port Orange into Spruce Creek.
- The scope of work was prepared following discussions with the City of Port Orange staff regarding the implementation plan by the City's TMDL Prioritization Plan (Rev. May 2022) and the contribution of pollutant loading to Spruce Creek (WBIDs) by the City of Port Orange.
- The City's TMDL Prioritization plan includes two WBIDs for Spruce Creek (WBIDs 2674 and 2674A). WBID 2674 has Total Nitrogen (TP), Total Phosphorus (TP), and Dissolved Oxygen (DO) as the listed pollutants. WBID 2674A has Fecal Coliform as the listed pollutants. The listed pollutants for each WBID will be the only pollutants evaluated for the corresponding WBIDS in this analysis.
- This project will evaluate point and nonpoint source pollutants for each WBID based on the WBID boundaries specified under the City's TMDL prioritization Plan. The extent of the WBID boundaries to be evaluated will be limited to the portions contained within the City of Port Orange limits.

Specific Scope of Basic Services:

Task 1: Data Collection

A. Kimley-Horn will collect available desktop data to determine the pollutant sources from the City of Port Orange and other contributing municipalities to Spruce Creek WBIDs 2674 and 2674A. This data will be gathered from the City to be evaluated.

B. Kimley-Horn will prepare Pollutant Source Exhibits detailing the point and nonpoint loading sources for the evaluated pollutants of WBID 2674 and 2674A for the affected extents of the City.

C. Kimley-Horn will meet with the City of Port Orange to review the Pollutant Source Exhibits. The City will provide feedback on the exhibits and corresponding data collected. Kimley-Horn will revise the Pollutant Source Exhibits one time based on this feedback.

Task 2: Pollutant Loading Analysis

A. Kimley-Horn will prepare a pollutant load analysis for the listed pollutants for WBIDs 2674 and 2674A. The evaluation of pollutant loads from point sources may include septic systems, reclaim water point sources, treatment plants, or other point sources based on feedback from the City. The evaluation of nonpoint sources will include assumed pollutant loadings based on available landuse data. When applicable, pollutant loading estimations will be based on methodology from the TMDL Reports for WBIDs 2674 and 2674A. Methodology to determine pollutant loading may differ between pollutants. Kimley-Horn will prepare a Pollutant Loading Exhibit for each WBID showing the assumed loading levels for each source and total loading into Spruce Creek from the corresponding portion of the WBID boundary within City of Port Orange limits.

Task 3: Technical Memorandum

A. Kimley-Horn will prepare a draft and a final technical memorandum with the findings and model results from Task 2 including a summary of the collected data, final exhibits from Tasks 1 and Task 2, and key takeaways from the Pollutant Loading Analysis. Kimley-Horn will meet with the City of Port Orange to review the draft technical memorandum and will update the draft technical memorandum one time based on City feedback to create a final technical memorandum.

Schedule:

Kimley-Horn will perform the services as expeditiously as practicable with the goal of meeting a mutually agreed upon schedule.

Deliverables:

Deliverables for this project include the following:

- Pollutant Source Exhibit
- Pollutant Loading Exhibit
- Draft Technical Memorandum
- Final Technical Memorandum

Method of Compensation:

Kimley-Horn will perform these services for the total lump sum fee of $45,020.00 inclusive of expenses. Invoices will be billed on a percent complete basis per task. A breakdown of the fee by task is as follows:

Task	*Description*	*Lump Sum*
1	Data Collection and Coordination	$19,000
2	GIS Based Pollutant Loading Model	$30,000
3	Technical Memorandum	$5,000
	Total	**$54,000**

Kimley»Horn

Other Special Terms:

Services provided under this agreement will be invoiced on a monthly basis. All invoices will include a description of services provided.

ACCEPTED:

CITY OF PORT ORANGE, FLORIDA	KIMLEY-HORN AND ASSOCIATES, INC.
BY:________________	BY: Ryan D. Wetherell Ryan Wetherell
TITLE:________________	TITLE: Senior Associate
DATE:________________	DATE: Oct 16, 2024

HUMAN TRAFFICKING AFFIDAVIT
(SECTION 787.06, FLORIDA STATUTES)

STATE OF FLORIDA §
§
COUNTY OF VOLUSIA §

The undersigned ("Affiant"), on behalf of the entity listed below ("Entity"), after being duly sworn, hereby attests as follows:

1. My name is Hao Chau. I am over the age of Twenty-one years old. I am the Vice President (Title) of Kimley-Horn and Associates, Inc. (Business Name) a non-governmental entity which does business in the State of Florida, hereinafter called the "Entity."

2. I have personal knowledge of each and every statement of fact contained herein, and each and every statement of fact is true and correct.

3. Entity does not use coercion, as defined in Section 787.06, Florida Statutes, for labor or services.

4. The undersigned is an officer or representative of the entity and is authorized to execute this affidavit on behalf of the Entity.

5. Under penalties of perjury, I declare that I have read the foregoing Human Trafficking Affidavit and that the facts stated herein are true.

Further Affiant sayeth not.

Date: August 29, 2024

Signed: [signature]
Print Name: Hao Chau
Title: Vice President

SUBSCRIBED AND SWORN before me by means of [XX] physical presence or [__] online notarization on the 29th day of August, 2024 by Hao Chau as Vice President on behalf of Kimley-Horn and Associates, Inc. who is personally known to me or who has produced ahe corp. as identification.

(Notary Seal)
Notary Public State of Florida
Kelly Burdett
My Commission HH 537969
Expires 6/12/2028

Kelly Burdett HH 537969 6/12/2028
Notary Public, State of Florida
Printed name, commission and expiration of commission term

SKB.7.8.2024
CA7985

CITY OF PORT ORANGE MASTER CONTRACT PROFESSIONAL ENGINEERING SERVICES FOR PUBLIC WORKS, UTILITIES AND ENVIRONMENTAL SERVICES

This Standard Contract for Services ("Contract") is entered into this 18 day of Jan, **2022**, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina corporation, registered to transact business in Florida, whose principal address is 421 Fayetteville Street, Suite 600, Raleigh, North Carolina 27601 ("Engineer"). The City and Engineer are collectively referred to herein as the "Parties."

The City and the Engineer for Ten Dollars ($10.00) and other good and valuable consideration hereby covenant and agree as set forth below.

1. *Provision of Services*

   (a) The Engineer hereby agrees to provide the following services to the City of Port Orange:

      (i) Professional continuous utility engineering consulting services to complete a wide range of projects led by the City of Port Orange Public Works and Utilities Department in accordance with Consultants Competitive Negotiation Act, and as more specifically described in Request for Statement of Qualifications 21-03 ("RFSQ 21-03"). This Contract together with RFSQ 21-03, Addendum No. 1, Addendum No. 2, and Engineer'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 Engineer. For convenience, Section 3, Scope of Services, of RFSQ 21-03, and the Schedule of Hourly Billing Rates as submitted by Engineer in Engineer's Proposal are attached hereto as Exhibit "1." A complete copy of RFSQ 21-03 is available in the Office of the City Clerk. Engineer 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 both of the Parties, and shall continue for a period of three (3) years, or until either party provides the other party written notice of its intent to terminate as provided in this Contract.

      Renewals: Upon written agreement of the Parties and appropriation by City Council, this Contract may be renewed for up to two (2) additional one (1) year periods.

      Manner and Place: The Engineer shall perform the services as outlined in each project assignment, in accordance with Standard Construction Details as required on all City owned facilities and properties (i.e. rights-of-way) 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. Engineer shall not deliver goods or services without a fully executed task authorization and a written purchase order, signed by an authorized agent of the City of Port Orange.

Time and Essence: Engineer acknowledges that time is of the essence in the completion of the services contemplated by this contract, and shall complete all services within the timeline specified by this contract, and shall complete all services within the timeline specified in the project, and as reflected on the Notice to Proceed.

2. *Authorization for Services* This Contract standing alone does not authorize the performance of any work or services to be provided by the Engineer or require the City to place any orders for work or service. Authorization for performance of services by the Engineer 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 Engineer. A sample Task Authorization is attached hereto as Exhibit "2."

a. All Task Authorizations 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 Authorizations shall remain in full force and effect until completion of all work or services performed under this Contract and/or the Task Authorization.

b. No new or additional Task Authorization shall be issued after the original expiration date of this Contract. The extension of this Contract to coincide with the completion of an existing Task Authorization issued prior to the original expiration date of this Contract shall not be construed as or constitute authorization by the City or the Engineer to enter into a new or additional Task Authorization 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.

3. *City Obligations* The City reserves the right to utilize lump sum or hourly rate compensation, at the hourly rate compensation as set forth in Exhibit "1." Rates may be adjusted on the anniversary of the effective date of this Contract, upon mutual written agreement of the Parties. The City's obligation to pay Engineer under this Contract is limited to an amount not to exceed the appropriated budget per 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 Engineer shall be paid compensation for all services, labor and material required thereby, and for all expenditures as specified in each Task Authorization. The fee shall be negotiated for each Project Task Authorization to this Contract. The Engineer shall submit a monthly statement for professional services rendered and expenses incurred to date of the statement. The statements for lump sum shall be based upon Engineer's estimate of the proportion of the total services actually completed at the time of billing to the total services to be performed. Such estimates are to be prepared by the Engineer and accompanied by such supporting data as may be required by the Contract Administrator. Compensation for any authorized cost which is not set forth in the Contract shall not exceed the actual, documented out-of-pocket cost to the Engineer, plus fifteen percent (15%). The Contract and Task Authorization(s) do not include retainer fees, nor is there a minimum fee guaranteed during the Contract period.

4. *Contract Administration* The Public Works and Utilities Director, Lynn Stevens, 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 Engineer. For notice provisions, see the paragraph below entitled "Notice."

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

6. *Statement of Engineering Services* The Engineer shall:

(a) Provide all certifications ("Engineer of Record" function) surveys, calculations, drawings, and any other documents required for special permits and authorizations from various government bodies or agencies having jurisdiction over the project;

(b) Prepare a time scaled diagram showing the dates of completion of various design phases and scheduled completion of working drawings and specifications and submit for Contract Administrator's review and approval;

(c) Verify and evaluate technical proposals furnished by the construction Engineer if requested by the City and provide such amplifications and explanations that may be necessary to clarify the intent of the drawings and specifications.

(d) Furnish consultation and advice as requested by the City during the construction of project, including Construction Administration Services (unless otherwise stipulated in a specific amendment attached hereto and made a part thereof);

(e) Furnish all other engineering services including without limitation those specified hereinafter and those required for the completion of specific projects as described in amendments to this contract:

(i) *Site Visits/Special Permits* The Engineer shall visit the site and shall initiate and hold such conferences with representatives of the City and other agencies, boards or government bodies having jurisdiction over the area the project covers and take such other action as may be necessary to obtain permits and authorizations (except the construction permits) and other data upon which to develop the design and preliminary sketches showing the contemplated project.

(ii) *Preliminary Sketches and Opinion of Probable Construction Costs* The preliminary sketches shall include plans, elevations and sections development in such detail and with such descriptive specifications as will clearly indicate the scope of work, and make possible a reasonable opinion of the construction cost and satisfy the requirements of permitting and regulatory agencies having jurisdiction. An opinion of probable construction costs shall be prepared.

(iii) *Working Drawings and Specifications* After the preliminary sketches and opinion of probable construction costs have been approved, the Engineer shall proceed with the preparation of working drawings and specifications as required by the Contract Administrator for the construction of said project. Working drawings, specifications and estimates shall be delivered to the Contract Administrator in such sequence and at such times as required by the City such that the construction work can be initiated promptly, procurement of materials made without delay and continuous prosecution of the work promoted, all in strict accordance with the approved design schedule as provided in Paragraph 5 (b) above. Working drawings and specifications shall be revised as necessary and as required by the Contract Administrator. After working drawings and specifications have been approved by the Contract Administrator, the Engineer shall furnish such number of sets of prints of the approved working drawings and such number of sets of the approved specifications, as may be required by the Contract Administrator.

(iv) *Original Drawings - Final Plans* Upon approval of final plans the Engineer shall deliver to the City one set of original drawings, in such medium and on such materials, as may be required by the Contract Administrator, suitable for blueprinting, showing approved constructed requirements (not of "as-built" construction unless otherwise stipulated), provided, however, that should this contract be terminated by the City the Engineer shall deliver to the City one set of originals as they exist at the time of termination. Such plans as are delivered shall become and remain the property of the City.

(v) *Revision of Final Drawings and Specifications* The engineer shall without additional fee correct and revise the drawings, specifications, or other materials furnished under this contract, if the Contract Administrator finds that such revision is necessary to correct errors or deficiencies for which the Engineer is responsible.

(vi) *Bidding* The Engineer shall perform all necessary engineering services required in connection with the competitive bidding for construction of the project and the preparation of all documents required thereof, including preparation of documents for separate bid packages for multiple contractors if so required by Contract Administrator.

7. *Responsibility of the Engineer* The Engineer shall be responsible for the professional and technical accuracy and the coordination of all designs, drawings, and specifications and other work or materials furnished by the Engineer under this contract. The Engineer shall without additional cost or fee to the City, correct or revise any errors or deficiencies in his performance.

8. *Reuse of Documents* The City shall have unlimited rights, for the benefit of the City in all drawings, designs, specifications, notes and other engineer's work produced in the performance of this contract, or in contemplation thereof, and all as-built drawings produced after completion of the work, including the right to use same on any other City work without additional cost to the City. All documents including Drawings and Specifications prepared by Engineer pursuant to this Contract are instruments of service in respect of the Project. They are not intended or represented to be suitable for reuse by City or others for any other project. Reuse for another project without written verification or adaption by Engineer for the specific purpose intended will be at City's risk. Any such verification or adaption will entitle Engineer to further compensation at rates to be agreed upon by City and Engineer. A reproducible set of plans and specifications shall be delivered to and become the property of the City upon completion of the Project by the Engineer.

9. *Expert Witness* The Engineer shall serve as an expert witness for the City in any legal proceedings regarding this project if the City so requests. The expert witness fee for Engineer shall be negotiated at the time the Engineer is called as an expert.

10. *Modifications to Scope of Work/Change Orders*

(a) Change Orders. The Contract Administrator, upon written approval 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 one or more of the following: the services to be performed, the contract price 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 Engineer's cost of, or time required for the performance of the work hereunder, Engineer shall receive an equitable adjustment and the contract shall be modified in writing accordingly. Any change shall include all costs and damages related to or incidental to such change.

(c) Any claim by the Engineer for adjustment under this clause shall be asserted in writing within thirty (30) days from the date of receipt by the Engineer of the notification of change unless the Contract Administrator grants a further period of time before the date of final payment under the contract. The Engineer shall proceed with the prosecution of the work as changed. Except as provided in this Contract, the Engineer shall not be entitled to payment for a charge for any extra work or material.

11. *Subcontractors or Sub-Subcontractors*

(a) Any subcontractors and outside associates or consultants required by the Engineer in connection with the services covered by the Contract will be limited to such individuals or firms as are specifically identified in an amendment to this Contract. Any substitution in such subcontractors, associates, or consultants shall be subject to the prior approval of the Contract Administrator.

(b) Engineer shall save and hold the City harmless from any and all claims or actions by Engineer's Subcontractors or Sub-subcontractors for payment of monies such Subcontractor of Sub-subcontractor claims to be owed by Engineer for work performed under this Contract.

(c) Nothing in this Contract shall create any obligation on the part of the City to pay directly to any Subcontractors of Sub-subcontractors or claims of a Subcontractor or Sub-subcontractors for amounts owed by Engineer to Subcontractor or Sub-subcontractor for work performed under this Contract.

(d) Engineer shall be fully responsible for all negligent acts and omissions of it Subcontractors and Sub-subcontractors and of persons directly or indirectly employed by them and of persons of whose negligent acts any of them may be liable to the same extent that it is responsible for the negligent acts and omissions of persons directly employed by it. Nothing in the Contract documents shall create any contractual relationship between any subcontractor and the City or any obligation on the part of the City to pay or to see to the payment of any moneys due any subcontractor to the extent practicable, evidence of amounts paid to the Engineer on account of specific work done in accordance with the schedule of values.

(e) The Engineer shall require all subcontractors or sub-subcontractors or outside associates employed in connection with the performance of this Contract to comply fully with the terms and conditions of this Contract between the City and the Engineer.

12. Termination

(a) The performance of work under this Contract may be terminated by the City in accordance with this clause in whole, or from time to time in part, whenever the Contract Administrator shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Engineer of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Contract Administrator, the Engineer shall:

(i) Stop work under the Contract on the date and to the extent specified in the Notice of Termination.

(ii) Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract as it is not terminated.

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.

(iv) Assign to the City in the manner, at the times and to the extent directed by the Contract Administrator, all of the right, title, and interest of the Engineer under the orders and subcontracts so terminated, in which case the City shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(v) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contract Administrator, to the extent the City may require which approval or ratification shall be final for all the purposes of this clause.

(vi) Transfer title and deliver to the City in the manner, at the times, and to the extent, if any, directed by the Contract Administrator.

a. The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination; and

b. The completed or partially completed plans, drawings, information, and other property which, if the contract has been completed, would have been required to be furnished to the City.

(vii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.

(c) After receipt of a Notice of Termination, the Engineer shall submit to the City's Contract Administrator his termination claim, in the form and with certification prescribed by the Contract Administrator. Such claim shall be submitted promptly but in no event later than thirty (30) days from the effective date of termination, unless one or more extensions in writing are granted by the Contract Administrator, upon request of the Engineer made in writing within such thirty (30) days period or authorized extension thereof. Upon failure of the Engineer to submit his termination claim within the time allowed, the Contract Administrator may determine on the basis of information available to him, the amount, if any, due to the Engineer by reason of the termination and shall thereupon pay to the Engineer the amount so determined.

(d) Subject to the provisions of Paragraph 11 (c), the Engineer and the Contract Administrator may agree upon the whole or any part of the amount or amounts to be paid the Engineer by reason of the total or partial termination of work pursuant to this clause, the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The Contract shall be amended accordingly and the Engineer shall be paid the agreed amount. Nothing in Paragraph 11 prescribing the amount to be paid to the Engineer, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid.

(e) In the event of the failure of the Engineer and the Contract Administrator to agree as provided in Paragraph 11 (d), upon the whole amount to be paid to the Engineer by reason of the termination of work pursuant to this subparagraph, the Contract Administrator shall pay to the Engineer the amounts determined by the Contract Administrator, but without duplication of any amounts agreed upon, as follows:

(i) For completed work and services accepted by the City, the price or prices specified in the contract for such work, less any payments previously made.

(ii) The total of:

a. The costs incurred in the performance of the work and service terminated, including initial costs and preparatory expenses allocable thereto, but exclusive of any costs attributable to the work and services paid or to be paid for under Paragraph 11 (e)(i) hereof;

b. The cost of settling and paying claims arising out of the termination of work or services under subcontracts or orders as provided in Paragraph 11 (b)(v) above, which are properly chargeable to the terminated portion of the contract exclusive of amounts paid or payable on account of work or services delivered or furnished by subcontractors prior to the effective date of termination, which amounts shall be included in the costs payable under Paragraph 11 (a) above; and

c. A sum, as profit on Paragraph 11 (a) above, determined by the Contract Administrator to be fair and reasonable, not to exceed 5% of the Task Authorization.

(iii) In the event the contract is terminated because of Engineer's default, the City may take over the work and services and complete the same by contract or otherwise, and the Engineer shall be liable to the City for any increased cost of the project.

13. *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 Engineer. Should termination be accomplished in accordance with this Section, the City shall be liable only for payments due through the date of termination. 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.

14. *Engineer's Records*. The design, permits and all other records prepared by the Engineer, assembled for the City, subcontracted for the City, and any other records related to the scope of work in the possession of the Engineer shall be retained by the Engineer for the requisite time set forth in Florida Administrative Code Rule 1 B-24 http://dos.myflorida.com/library-archives/records-management/. Engineer may dispose of the records in accordance with Florida law, upon receipt of a signed written release signed by the City Attorney. During the term of this Contract, as amended from time to time, Engineer agrees to indemnify the City for failure to comply with the requirements of this paragraph including costs of litigation and legal fees incurred through all appeals. City reserves the right to select and approve the defense attorney. The Engineer's obligations pursuant to this paragraph shall survive the termination of this Contract, and as amended from time to time.

15. *Examination of Records*

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

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

16. *Public Records Compliance* Engineer 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 Engineer does not transfer the records to the City.

(d) Upon completion of the Contract, Engineer shall transfer to the City, at no cost, all public records in possession of the Engineer 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 Engineer does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Engineer may be subject to penalties under Section 119.0701, Florida Statutes.

ENGINEER QUESTIONS RELATING TO ENGINEER'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.

17. *Insurance* Engineer shall maintain insurance, as required herein, during the life of this Contract. Engineer 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 Engineer shall be primary and non-contributory. All insurance coverages of the Engineer shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Engineer'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 Engineer may use leased employees if the Engineer 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 Engineer 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. Engineer 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.

Engineer 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 Engineer is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Engineer to ensure the subcontractors maintain the required coverage, shall not relieve the Engineer 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 Engineer 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 Engineer 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 Engineer 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 Engineer 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 Engineer 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.	
☐	Engineer 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 amount of Contract.	
☐	**City Manager waives Payment and Performance Bond for work under $25,000.00.**			
☐	**Unless otherwise required by law, City Manager waives Insurance for FOB goods under $25,000.00.**			

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

19. *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.

20. *Liability for Loss or Damage*

(a) Engineer shall be liable for any loss of, or damage to, City property caused by the negligence, recklessness, or intended wrongful misconduct of Engineer, 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, to the extent caused by negligent performance of the Contract by Engineer, his/its agents, servants and employees. Engineer shall submit a full written report to the Finance Director within twenty-four (24) hours following the occurrence of such damage, loss or injury.

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

(a) Engineer 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 Engineer. Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Engineer agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Engineer shall state in all solicitations or advertisements for employees placed by or on behalf of Engineer that Engineer 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. Engineer shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over $10,000 so that the provisions will be binding upon each subcontractor or vendor.

22. *E-Verify*. Engineer 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 Engineer on or after the effective date of this Contract and thereafter during the remaining term of this Contract, including all subcontractors. Any subcontract entered into by Engineer with any subcontractor performing work under this Contract shall include the following language: "The Sub-Engineer 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 Engineer on or after the effective date of this Contract and thereafter during the remaining term of the Contract." The Engineer covenants and agrees that if it is found in violation of this section of the Executive Order, such violation shall be a material breach of this Contract and Engineer shall indemnify, defend and hold harmless the City from any fines or penalties levied by a government agency, including the loss or repayment of grant funds by the City.

23. *Disputes* The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Engineer, shall decide disputes with respect to this Contract in the first instance. The decision shall be final and binding unless, within ten (10) days from the date of receipt of the decision of the City Manager, appeal is made to the City Council. 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. Pending a final determination of a properly appealed decision of the City Council, Engineer shall proceed diligently with the performance of this Contract in accordance with that decision.

24. *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.

25. *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.

26. *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.

28. *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.

29. *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: Lynn Stevens, Public Works & Utilities Director
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5575

Engineer: ~~Kimley-Horn and Associates, Inc.~~
~~Attention: Brian A. Good, Director~~
~~421 Fayetteville Street~~
~~Suite 600~~
~~Raleigh, North Carolina 27601~~

Attention: Jonathan D. Thigpen, Senior Vice President
189 South Orange Avenue
Suite 1000
Orlando, Florida 32801
(407) 898-1511 – Telephone
(561) 863-8175 – Facsimile
~~Maybe.White@kimley-horn.com~~ jonathan.thigpen@kimley-horn.com

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.

30. *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, Engineer 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 Engineer and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Engineer 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) Engineer'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 Engineer 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.

31. *Waiver of Breach and Materiality* Failure to enforce any provision of this Contract shall not be deemed a waiver of such provision or modification of this Contract. A waiver of any breach of a provision of this Contract shall not be deemed a waiver of any subsequent breach and shall not be construed as a modification of the terms of this Contract.

32. *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 Engineer and the City until the City signs this Agreement.

33. *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:

Nicole McConnell
Printed Name: NICOLE MCCONNELL

A. T. H.
Printed Name: Tucker Hunter

KIMLEY-HORN AND ASSOCIATES, INC.

By: ____________________

Jonathan D. Thigpen, Senior Vice President

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: January 7, 2022

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ✓ physical presence or ___ online notarization, this 7th day of January, 2022, by Jonathan D. Thigpen, as Senior Vice President of Kimley-Horn and Associates, Inc., a North Carolina corporation, registered to transact business in Florida. He is ✓ personally known or ___ produced ____________________ as identification.

Susan M. Gremonprez
Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

SUSAN M. GREMONPREZ
Commission # GG 298833
Expires February 9, 2023
Bonded Thru Troy Fain Insurance 800-385-7019

Witnesses: **CITY OF PORT ORANGE**

Printed Name: Jamie Miller

By: Donald O. Burnette, Mayor

Printed Name: Matt Jones

Date: 1/18/2022

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ✓ physical presence or ___ online notarization, this 18 day of Jan., 2022, by Donald O. Burnette, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is ✓ personally known or ___ produced ____________ as identification.

MATTHEW J. JONES
Commission # GG 931831
Expires January 23, 2024
Bonded Thru Troy Fain Insurance 800-385-7019

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

Witnesses: **ATTEST:**

Printed Name: Jamie Miller

By: Robin L. Fenwick, MMC, City Clerk

Printed Name: Matt Jones

Date: 1/18/2022

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ✓ physical presence or ___ online notarization, this 18 day of Jan., 2022, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ✓ personally known or ___ produced ____________ as identification.

MATTHEW J. JONES
Commission # GG 931831
Expires January 23, 2024
Bonded Thru Troy Fain Insurance 800-385-7019

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

EXHIBIT "1"

Engineer's Schedule of Hourly Billing Rates and RFSQ 21-03 Section 3

Consisting of 2 Pages

KIMLEY HORN AND ASSOCIATES
SCHEDULE OF HOURLY BILLING RATES

Labor Position/Classification Level	Hourly Rate
Principal	$300.00
Senior Project Manager	$230.00
Project Manager	$190.00
Senior Project Engineer	$210.00
Project Engineer	$170.00
Analyst 3	$145.00
Analyst 2	$125.00
Analyst 1	$115.00
Senior Environmental Scientist	$185.00
Environmental Scientist	$130.00
GIS Analyst	$130.00
Grants Coordinator	$175.00
Sr CAD Designer	$185.00
CAD Designer	$150.00
CAD Technician	$110.00
Administrative	$95.00
Clerical	$75.00

Notes:
1. Billing rates listed in the table above are for the period from FY2022 through FY2024.
2. The salary multiplier billing rates include all payroll burden, overheads, and profit.
3. Subconsultants will be billed at 115% of actual cost
~~4. Standard project expenses will be billed as an allocation equivalent to 5.0% of the labor fee.~~

SECTION 3 – SCOPE OF SERVICES AND REQUIREMENTS

SCOPE OF SERVICES

The City of Port Orange is soliciting proposals from qualified firms for professional continuous engineering consulting services to complete a wide range of needs lead by the City of Port Orange Public Works & Utilities Department. The City will select a minimum of three, and up to five firms who can provide all, some, or one of the category service disciplines outlined in the scope of services. Firms do not have to be able to provide all of the services listed in the scope of services. For instance, if a firm only provides Environmental Services then they should state that in their initial Statement and provide all of the supporting data within the submittal to support the type of services provided. Individual firms are the focus of this RFSQ process, therefore the City will not accept Statements of Qualifications submitted with multiple firms (i.e., teams). The City is seeking the most highly qualified firms in the following category service disciplines;

- **Public Utilities (Water, Wastewater, & Reclaimed Water):**
  - Analysis, survey, design, permitting, bidding assistance, engineering services during construction, and State Revolving Funds (SRF) loan assistance for the Cities water, wastewater, and reuse systems. Including but not limited to the Cities wastewater collection and treatment systems, raw water wells, raw water transmission, water treatment, and reclaimed water storage and distribution systems
- **Public Works (Stormwater, Roadways, and Sidewalls/Trails):**
  - Analysis, survey, design, permitting, bidding assistance and engineering during construction for the Cities roadways and sidewalks
  - General stormwater needs as required by the Stormwater Utility Program. The list of services shall consist of, but not be limited to, the following:
  - National Pollutant Discharge Elimination System (NPDES) program assistance and implementation,
  - Total Maximum Daily Load (TMDL) program assistance and implementation including, but not limited to, the evaluation and establishment of estuarine TMDLS and NNC, developing ecosystem goals and targets based on the requirements of the environmental and biological indicators, hydrodynamic modeling, water quality statistical analysis, natural systems analysis and habitat analysis,
  - Watershed management planning including, but not limited to, initial hydrologic and hydraulic modeling of the watersheds in Port Orange, as well as pollutant loading modeling and updates to existing Stormwater Management Master Plans of the watersheds,
  - Engineering analysis/design and permitting of capital improvement projects, and
  - Other stormwater/environmental needs that may arise.
- **Environmental Services:**
  - Provide services related to wetlands mitigation bank management, gopher tortoise mitigation bank management, potable drinking water Consumptive Use Permit (CUP) permit monitoring, reporting, and compliance assistance, hydrologic services related to potable water wellfield management and development
  - Monitoring, sampling, and reporting services as required for permits issued and regulated by various local and State agencies such as Consumptive Use Permitting and other operational permits issued to the City by St. Johns River Water Management, U.S. Army Corps of Engineers, and the Florida Department of Environmental Protection for the operation of the Cities Wetlands Mitigation Bank, Gopher Tortoise Mitigation Bank each have very specific and differing water sampling, monitoring, and reporting procedures and requirements.
- **Grant Compliance Assistance:**
  - Provide Grant Compliance assistance for local, state, and federally administered grants, including but not limited to, HUD Community Development Block Grants, FEMA Hazard Mitigation Grant Program, FDEP Legislative Appropriation grants. Services will include tasks such as; Assistance with U.S. Department of Housing and Urban Development Environmental Review Record Development for projects funded with Community Development Block Grant Funds. Reviewing, monitoring, evaluating and acting upon documentation required for Construction Contract compliance.

[End of Scope of Services - Remainder of this page left intentionally blank]

EXHIBIT "2"

Task Authorization Template

Consisting of 4 Pages

TASK AUTHORIZATION NO. ___
Master Contract for Services dated ____________________
Between the City of Port Orange, Florida and Kimley-Horn and Associates, 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 **KIMLEY-HORN AND ASSOCIATES, INC.**, North Carolina corporation, registered to transact business in Florida, with its principal place of business at 421 Fayetteville Street, Suite 600, Raleigh, North Carolina 27601 ("Engineer"), and hereinafter collectivelyreferred to as the "Parties," and is to that certain Master Contract relating to Professional Engineering Services for Public Works, Utilities and Environmental Services, as dated 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, Engineer 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. Engineer shall complete the services to be provided herein within ______ days of the date of written notice by the City to the Engineer.

4. In return for the services identified above, the City agrees to compensate Engineer at the prices set forth in Exhibit "1" attached hereto and made a part hereof, 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, Engineer 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 Engineer and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Engineer 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) Engineer'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 currentat the time of contract. The certification shall also constitute an affirmation that Engineer 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. 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 Engineer 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: **KIMLEY-HORN AND ASSOCIATES, INC.**

______________________________ By:______________________________

Printed Name:______________________ Jonathan D. Thigpen, Senior Vice President

______________________________ Date:______________________________

Printed Name:______________________

Witnesses:	**CITY OF PORT ORANGE**
______________________________	By:______________________________
Printed Name:______________________	Donald Burnette, Mayor ***or*** Wayne Clark, City Manager
______________________________	
Printed Name:______________________	Date:______________________________

Witnesses:	**ATTEST:**
______________________________	By:______________________________
Printed Name:______________________	Robin L. Fenwick, MMC, City Clerk
______________________________	Date:______________________________
Printed Name:______________________	

CERTIFICATE OF LIABILITY INSURANCE

ACORD®

DATE (MM/DD/YYYY): 3/18/2024

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
Edgewood Partners Ins. Center/Greyling
3780 Mansell Rd. Suite 370
Alpharetta GA 30022

CONTACT NAME: Jerry Noyola
PHONE (A/C, No, Ext): 7702207699 **FAX (A/C, No):**
E-MAIL ADDRESS: greylingcerts@greyling.com

INSURED KIMLASS
Kimley-Horn and Associates, Inc.
421 Fayetteville Street, Suite 600
Raleigh, NC 27601

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : National Union Fire Ins Co of Pittsburg	19445
INSURER B : Allied World Assurance Co (U.S.) Inc.	19489
INSURER C : New Hampshire Insurance Company	23841
INSURER D : Lloyd's of London	85202
INSURER E :	
INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 221548564 **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			GL5268169	4/1/2024	4/1/2025	EACH OCCURRENCE	$ 2,000,000
	CLAIMS-MADE; X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
	X Contractual Liab						MED EXP (Any one person)	$ 25,000
							PERSONAL & ADV INJURY	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 4,000,000
	POLICY; X PRO-JECT; X LOC						PRODUCTS - COMP/OP AGG	$ 4,000,000
	OTHER:							$
A A	AUTOMOBILE LIABILITY			CA4489663 (AOS) CA2970071 (MA)	4/1/2024 4/1/2024	4/1/2025 4/1/2025	COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
	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)	$
								$
B	X UMBRELLA LIAB; X OCCUR			03127930	4/1/2024	4/1/2025	EACH OCCURRENCE	$ 5,000,000
	X EXCESS LIAB; CLAIMS-MADE						AGGREGATE	$ 5,000,000
	DED; X RETENTION $ 10,000							$
C C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N			WC015893685 (AOS) WC015893686 (CA)	4/1/2024 4/1/2024	4/1/2025 4/1/2025	X PER STATUTE; OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N	N / A					E.L. EACH ACCIDENT	$ 2,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$ 2,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$ 2,000,000
D	Professional Liability			B0146LDUSA2404949	4/1/2024	4/1/2025	Per Claim Aggregate	$2,000,000 $2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: Comprehensive Plan Update; Kelley Klepper. The City of Port Orange is named as an Additional Insured with respects to General & Automobile Liability where required by written contract. Waiver of Subrogation applies to Workers Compensation where required by written contract & allowed by law.

CERTIFICATE HOLDER
City of Port Orange
1000 City Center Circle
Port Orange FL 32129-0000

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
Gregg Burkhart

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/6/2024

SUBJECT: (C9) Resolution No. 24-45 - Reimbursement Resolution for Public Safety and Public Works Equipment

DEPARTMENT: Finance

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve Resolution No. 24-45.

SUMMARY: The approved Fiscal Year 2024 and 2025 budget included funding for the replacement of miscellaneous public safety and public works equipment that were deemed at the end of their useful lives. The equipment to be replaced is as follows:

• Police Interceptors (Police) Qty 13	$910,000
• Batwing Mower (Public Works)	$275,000
• Grappler Truck (Public Works)	$250,000
• Fire Engine (Fire)	$1,500,000
• Dump Truck (Public Works) Qty 2	$360,000
Total	**$3,295,000**

Additional details on the above vehicles are attached in Exhibit 1.

The staff is financing this purchase through a master lease agreement as approved in the FY2024 and 2025 budgets. A request for quotes was submitted to numerous financial institutions in mid-October 2024 as a master lease financing agreement. The City intends to finance the costs of the replacement vehicles and equipment with the proceeds of a capital lease to be issued in the future, the interest on which is intended to be excludable from gross income for federal income tax purposes (the “Tax Exempt Financing”, the Advanced Funds). We anticipate bringing the master lease for Council consideration at the November 19 meeting.

This Resolution allows the City to reimburse itself for such expenditures with proceeds from the master capital lease when proceeds have been received.

PRESENTER: John McKinney

ATTACHMENTS:

1.	Reso 24-45 - Reimbursement Reso - Public Safety and Public Works Equipment 10.30	Reso 24-45 - Reimbursement Reso - Public Safety and Public Works Equipment 10.30.pdf
2.	Reso. No. 24-45 - Exhibit A - Equipment List	Reso. No. 24-45 - Exhibit A - Equipment List.pdf

John McKinney	Created/Initiated - 10/15/2024
John McKinney	Approved - 10/15/2024
Matthew Jones	Approved - 10/30/2024
Wayne Clark	Approved - 10/30/2024
Amanda Bonin	Final Approval - 10/30/2024

RESOLUTION NO. 24-45

A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF PORT ORANGE, FLORIDA TO ISSUE TAX-EXEMPT OBLIGATIONS IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING $3,295,000 TO REIMBURSE THE CITY FOR AMOUNTS ADVANCED BY THE CITY TO PAY THE COSTS OF CERTAIN PUBLIC SAFETY AND PUBLIC WORKS EQUIPMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange, Florida (the "City") has received bids for the purchase of public safety and public works equipment described on Exhibit A (collectively, the "Public Safety and Public Works Equipment");

WHEREAS, the City intends to finance the costs of such Public Safety and Public Works Equipment with the proceeds of equipment leases, notes or other obligations to be issued in the future in one or more series the interest on which is intended to be excludable from gross income for federal income tax purposes (the "Tax Exempt Financing");

WHEREAS, the City intends to initially pay certain costs of the Public Safety and Public Works Equipment with legally available funds of the City other than proceeds of the Tax Exempt Financing (the "Advanced Funds") and to reimburse itself for such expenditures with the proceeds of the Tax Exempt Financing; and

WHEREAS, the City desires to set forth such intent in this Resolution for the purpose of compliance with United States Treasury Regulation Section 1.150-2.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, FLORIDA, THAT:

SECTION 1. AUTHORITY. This Resolution is adopted pursuant to Chapter 166, Part II, Florida Statutes, and other applicable provisions of law (collectively, the "Act").

SECTION 2. FINDINGS. The City Council hereby finds, determines and declares as follows:

A. The City is authorized under law, including, without limitation, the Act, to issue the Tax Exempt Financing for the valid public purpose of paying the costs of the Public Safety and Public Works Equipment.

B. It is necessary, desirable, convenient and in the interest of the City that the Public Safety and Public Works Equipment be financed as contemplated in this Resolution.

C. The City intends to ultimately finance the Public Safety and Public Works Equipment with the proceeds of its Tax-Exempt Financing to be issued in the future.

D. The City intends to initially pay certain costs of the Public Safety and Public Works Equipment with Advanced Funds with the proceeds of such Tax-Exempt Financing.

SECTION 3. EXPRESSION OF INTENT. The City reasonably expects to use the proceeds of the Tax Exempt Financing to reimburse itself for all or a portion of the expenditures described herein paid initially with the Advanced Funds. This Resolution is a declaration of the official intent of the City in that regard, within the meaning of Section 1.150-2 of the Treasury Regulations promulgated in connection with the Internal Revenue Code of 1986, as amended.

SECTION 4. MAXIMUM AMOUNT OF REIMBURSEMENT DEBT. The maximum principal amount of the Tax Exempt Financing reasonably expected to be issued to finance the purchase of the Public Safety and Public Works Equipment by reimbursing the City for the Advanced Funds is $3,295,000.

SECTION 5. FURTHER ACTION. The officers, agents and employees of the City are hereby authorized to do all acts and things required of them by this Resolution for the full, punctual and complete performance of all the terms, covenants and agreements contained herein or necessary or convenient to the issuance of the Tax-Exempt Financing and reimbursement of the Advanced Funds as provided herein.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

DULY PASSED AND ADOPTED at a regular meeting this ____day of November, 2024.

CITY OF PORT ORANGE, FLORIDA

____
Donald O. Burnette, Mayor

ATTEST:

____
Robin L. Fenwick, MMC, City Clerk

Reso. No. 24-45 - Exhibit "A"

City of Port Orange, Florida.

2024 Master Equipment Lease

Draw 1		
Vehicle /Equipment	**Department**	**Amount USD**
13 Police Interceptors	Police	910,000
	Draw 1 Total	**910,000**
Draw 2		
Vehicle /Equipment	**Department**	**Amount USD**
Batwing Mower	Public Works	275,000
Grapple Truck	Public Works	250,000
Fire Engine-Pumper Rescue	Fire	1,500,000
12YD Dump Truck	Public Works	180,000
12YD Dump Truck	Storm water	180,000
	Draw 2 Total	**2,385,000**
	Total Draw 1 and 2	**3,295,000**

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/6/2024

SUBJECT: (C10) City Attorney's Report on Special Legal Counsel for FY2025

DEPARTMENT: City Attorney

GOAL: 6 - Organizational Excellence

RECOMMENDED MOTION: No motion needed.

SUMMARY: The City Council has authorized the City Attorney to engage special legal counsel when the circumstances of a particular case or matter warrant. The attached report lists the firms engaged by the City Attorney to represent the City of Port Orange on an ad hoc basis as determined by the City Attorney for FY 2025.

PRESENTER: Matthew Jones

ATTACHMENTS:

1.	[http][][v][CA Special Counsel Report FY25]	[http][][v][CA Special Counsel Report FY25].pdf

---

Matthew Jones	Created/Initiated - 10/15/2024
Matthew Jones	Approved - 10/15/2024
Wayne Clark	Final Approval - 10/25/2024

CITY ATTORNEY SPECIAL LEGAL COUNSEL SERVICES – FY 2025

Allen Norton & Blue, P.A. / Ford & Harrison, LLP / Gray Robinson, P.A.

Personnel, labor and employment law involving labor contract negotiations, grievances and arbitrations, Fair Labor Standards, policy reviews and other similar matters.

Kinsey Vincent & Pyle, P.L.

Construction bond and contract litigation, complex construction contracting matters, American Institute of Architect Contract Licensing, and other litigation or prosecutorial matters.

Lewis Longman & Walker, P.A.

Pension Law for fire, police, general employees and other administrative and state regulatory matters.

Dean Ringers Morgan & Lawton, P.A. / Walker Revels & Greninger, PLLC

Civil litigation defense, policy development, personal injury, workers compensation, law enforcement liability and other general litigation coverage.

Scott E. Simpson, P.A.

Real property, escrow and litigation services.

Bryant Miller Olive, P.A.

Impact fee, special assessments and other fee ordinance implementation or amendments; and public private partnerships.

Gray Robinson, P.A.

Communications related services including development reviews, lease preparation and negotiations, and regulatory implementation and amendments.

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/6/2024

SUBJECT: (H14) Second Reading - Ordinance No. 2024-18 - First Amendment to the Angler's Cove PUD Master Development Agreement (Case No. PRZA-24-0007)

DEPARTMENT: Community Development

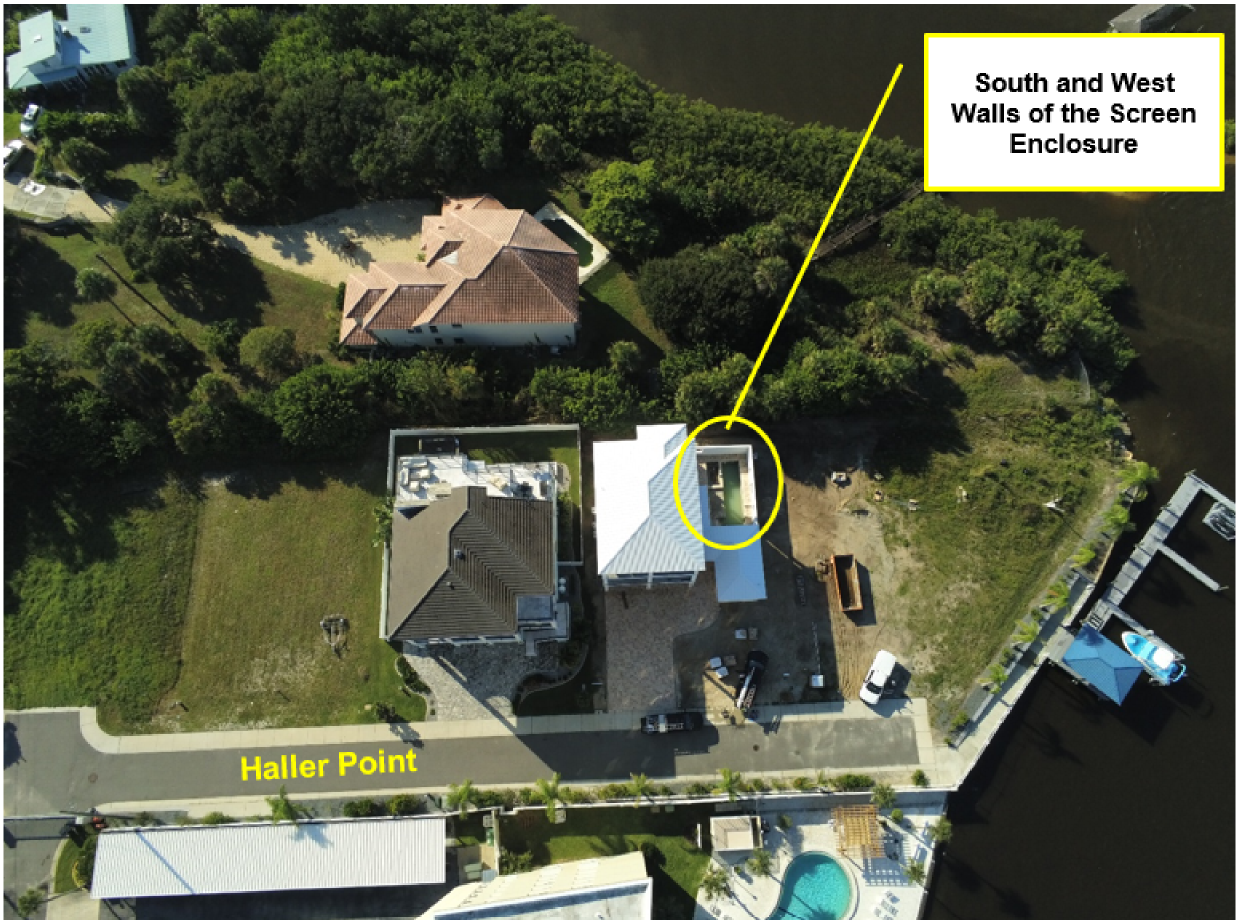
GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Ordinance 2024-18

SUMMARY: Planning Commission Action (9/26/24): Recommended Approval 4-0

The proposed 1st Amendment to the Angler’s Cove Planned Unit Development (PUD) Master Development Agreement (MDA) is to establish a modified definition of a screen enclosure for Lot 4 of the Angler’s Cove Subdivision. Lot 4 of the Angler’s Cove Subdivision (subject property) is located at 3657 Haller Point, south of the Admiralty Club condominium.

Staff discovered a permit error related to the pool screen room for this home. The building plans for the single-family home, reviewed and approved by a 3rd party plan review firm (private provider) and not city staff, included walls on the south and west sides of the pool deck, that along with the exterior walls of the house created a courtyard, with a screen roof over the courtyard. However, the same detail for the walled courtyard was not shown on the site layout plan for the single-family home building permit reviewed by staff.



Typically, when building permits for a single-family home and screen room are submitted at the same general time, building staff reviews the building plans for the permits for compliance with the Florida Building Code (FBC), and other Community Development staff reviews the site layout plan for compliance with the dimension (setbacks, open space, building coverage, building height, etc.) and lot grading requirements in LDC and/or MDA. This allows for an overall review of the proposed work and for staff to communicate if specific details are not fully shown on either the building or the site layout plans.

However, for this single-family home, the contractor had the building plans reviewed by a 3rd party plan review firm (private provider) for compliance with the Florida Building Code (FBC) instead of the city's building staff, which is allowed by Florida Statutes. When a contractor uses a private provider to review the building plans for a single-family home, that private provider is responsible for reviewing the building plans to ensure the plans meet the requirements of the FBC. Once the private provider approves the building plans for compliance with the FBC, the contractor submits a building permit to the city. When the city receives a single-family home permit, and the plans have been reviewed and approved by a private provider, city staff will apply the required development fees (impact fees, water connect fee, stormwater fee, etc.) and verify that the site layout plan for the single-family home complies with the dimensional (setback, open space, building height, etc.), lot grading, and landscape requirements in the LDC or MDA.

According to the Land Development Code (LDC), a screen room is defined as "an addition to a structure or integral part of a structure which is enclosed with screen, permitting unobstructed flow of air in and out of the addition. A screen room may have a permanent floor and roof structure integral to the principal structure; however, for purposes of this code, no elevation of any wall of the room shall have less than 60 percent open screen area." The proposed amendment allows each wall or elevation for the screen room on Lot 4 to have a minimum of 20 percent open screen area.

Because the open screen area percentage required for a screen room is provided in the definition for a screen room in the LDC and not as a specific dimensional code requirement, it does not meet the criteria to be processed as a variance. Therefore, the only way to establish an alternative percentage requirement to allow the already constructed walls to remain is to process an amendment to the MDA that allows a smaller percentage of open screen area for this specific home.

Due to the site conditions of this lot, there is adequate separation and existing vegetation between the screen room and the adjacent home to the south to minimize the visual appearance of the screen room. Due to the location of the screen enclosure on the subject property, configuration of the surrounding lots, and existing vegetation, allowing a larger proportion of solid wall or less open screen area is not anticipated to negatively impact any of the surrounding properties.

If the amendment is approved, it will allow the two walls that make up the screen room to have a minimum of 20 percent open screen area instead of the 60 percent standard. The proposed amendment only applies to Lot 4 and does not modify any dimensional requirements in the LDC or Anglers Cove MDA.

The Staff Report is attached for more information.

PRESENTER: Penelope Cruz, Tim Burman

ATTACHMENTS:

1.	Ordinance No. 2024-18 w exhibit	Ordinance 2024-18 w exhibit.pdf
2.	Angler's Cove PUD 1st Amendment to MDA	Angler's Cove PUD 1st Amendment to MDA.pdf
3.	Revised Business Impact Estimate - ORD 2024-18 - PRZA-24-0007	Revised Business Impact Estimate - ORD 2024-18 - PRZA-24-0007.docx
4.	STAFF REPORT	STAFF REPORT .pdf

Penelope Cruz Created/Initiated - 10/25/2024

ORDINANCE NO. 2024-18

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE ANGLER'S COVE PLANNED UNIT DEVELOPMENT MASTER DEVELOPMENT AGREEMENT TO ESTABLISH A MODIFIED DEFINITION OF A SCREEN ENCLOSURE FOR LOT 4 OF THE ANGLER'S COVE SUBDIVISION; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY OF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City and Developer desire to enter into the First Amendment to the Angler's Cove Planned Unit Development Master Development Agreement (hereinafter referred to as the "First Amendment"); and

WHEREAS, the Owner submitted a request to the Planning Commission to approve the First 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 First Amendment; and

WHEREAS, the City Council has approved by a majority vote of the members present the First 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 First Amendment (attached hereto as **Exhibit "1"**).

Section 2. The Mayor and City Clerk are hereby authorized to execute said First 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 ___________, 2024

Passed and adopted on second and final reading on the day of __________________,2024

Reviewed and Approved: ____
Shannon K. Balmer, Senior Assistant City Attorney

EXHIBIT 1

FIRST AMENDMENT TO ANGLER'S COVE PLANNED UNIT DEVELOPMENT

MASTER DEVELOPMENT AGREEMENT

The **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation (the "City"), and **GENEVIEVE H COMFORT, KIMBERLY C COMFORT, GARY C COMFORT JR, and MARY E COMFORT**, owners (the "Owner"), hereby covenant and agree, and bind their successors and assigns as follows:

WHEREAS, the Owner is the owner of the property more particularly described in **Exhibit "A"**, attached hereto and made a part here by reference ("Subject Property"); and

WHEREAS, the City and Intracoastal Lots, LLC (developer) previously entered into the Angler's Cove Planned Unit Development Master Development Agreement, adopted June 19, 2018, and recorded in Official Records Book 7561, Page 3038, Public Records of Volusia County, Florida (the "MDA"); and

WHEREAS, the Owner requests the City to amend the MDA to address screen room requirements for the Subject Property, the only property impacted by this First Amendment to Angler's Cover Planned Unit Development Master Development Agreement ("First Amendment"); and

WHEREAS, the City is willing to grant the 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 City and the Owners hereby agree to amend the MDA as follows:

1. The recitals provided above are recognized as true and correct representations and are incorporated herein.

2. **Exhibit C of the MDA is amended in part to read as follows: [additions shown in UNDERLINE, deletions shown in STRIKETHROUGH]**

EXHIBIT "C"

MINIMUM DIMENSIONAL REQUIREMENTS

Lot Number	**Minimum Lot Area**	**Minimum Lot Width**	**Front Setback**	**Side Setback**	**Rear Setback**	**Rear Buffer Easement**
1	7,500	75	25	7.5	20	5
2	7,500	75	25	7.5	20	5
3	7,500	75	25	7.5	20	5
4*	7,500	75	25	7.5	20	5
5	7,500	75	25	7.5	20	5

*Lot 4 may have a screen room which is enclosed with screen, permitting unobstructed flow of air, with no elevation of any wall of the room having less than 20 percent open screen area.

3. This First Amendment shall be effective as of the date it is executed by all parties. The MDA, as previously enacted, shall remain in full force and effect except with the respect to those matters specifically amended by this First Amendment.

4. This First Amendment shall be recorded in the Public Records of Volusia County, Florida, at the Owner's expense. The dimensional requirements imposed by this First Amendment shall be binding upon all successors in interest in the Subject Property.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto attached their hands and seals on the dates set forth below.

Signed, sealed and delivered in the presence of:	**THE CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation**
______________________________ Witness 1	By: ______________________________ Donald O. Burnette, Mayor
______________________________ Print Name of Witness 1	Attest:
______________________________ Witness 2	By: ______________________________ Robin L. Fenwick, MMC, City Clerk
______________________________ Print Name of Witness 2	Date: ______________________________

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 ___________, 2024 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: ______________________________

My commission expires _________

Signed, sealed and delivered in the presence of:

______________________________ Witness 1	By: ______________________________ **GENEVIEVE H. COMFORT**
______________________________ Print Name of Witness 1	Date: ____________________________
______________________________ Witness 2	
______________________________ Print Name of Witness 2	

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of __________, 2024, by **GENEVIEVE H. COMFORT**. He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

____
Notary Public
Commission No. ____________________________

Signed, sealed and delivered in the presence of:

__________________________________	By: ______________________________
Witness 1	**KIMBERLY C. COMFORT**
__________________________________	Date: _____________________________
Print Name of Witness 1	

____
Witness 2

____
Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _________, 2024, by **KIMBERLY C. COMFORT**. He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

____
Notary Public
Commission No. ___________________________

Signed, sealed and delivered in the presence of:

____
Witness 1

By: ________________________________
GARY C. COMFORT JR.

____
Print Name of Witness 1

Date: ______________________________

____
Witness 2

____
Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _________, 2024, by **GARY C. COMFORT JR**. He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

____
Notary Public
Commission No. ____________________________

Signed, sealed and delivered in the presence of:

____
Witness 1

By: ________________________________
MARY E. COMFORT

Date: _______________________________

____
Print Name of Witness 1

____
Witness 2

____
Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _________, 2024, by **MARY E. COMFORT**. He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

____
Notary Public
Commission No. ____________________________

EXHIBIT "A"

LEGAL DESCRIPTION

Tax Parcel: 6302-49-00-0040

LOT 4, ANGELER'S COVE, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 60, PAGE 109 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

FIRST AMENDMENT TO ANGLER'S COVE PLANNED UNIT DEVELOPMENT

MASTER DEVELOPMENT AGREEMENT

The **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation (the "City"), and **GENEVIEVE H COMFORT, KIMBERLY C COMFORT, GARY C COMFORT JR, and MARY E COMFORT**, owners (the "Owner"), hereby covenant and agree, and bind their successors and assigns as follows:

WHEREAS, the Owner is the owner of the property more particularly described in **Exhibit "A"**, attached hereto and made a part here by reference ("Subject Property"); and

WHEREAS, the City and Intracoastal Lots, LLC (developer) previously entered into the Angler's Cove Planned Unit Development Master Development Agreement, adopted June 19, 2018, and recorded in Official Records Book 7561, Page 3038, Public Records of Volusia County, Florida (the "MDA"); and

WHEREAS, the Owner requests the City to amend the MDA to address screen room requirements for the Subject Property, the only property impacted by this First Amendment to Angler's Cover Planned Unit Development Master Development Agreement ("First Amendment"); and

WHEREAS, the City is willing to grant the 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 City and the Owners hereby agree to amend the MDA as follows:

1. The recitals provided above are recognized as true and correct representations and are incorporated herein.

2. **Exhibit C of the MDA is amended in part to read as follows: [additions shown in UNDERLINE, deletions shown in STRIKETHROUGH]**

EXHIBIT "C"

MINIMUM DIMENSIONAL REQUIREMENTS

Lot Number	**Minimum Lot Area**	**Minimum Lot Width**	**Front Setback**	**Side Setback**	**Rear Setback**	**Rear Buffer Easement**
1	7,500	75	25	7.5	20	5
2	7,500	75	25	7.5	20	5
3	7,500	75	25	7.5	20	5
4*	7,500	75	25	7.5	20	5
5	7,500	75	25	7.5	20	5

*Lot 4 may have a screen room which is enclosed with screen, permitting unobstructed flow of air, with no elevation of any wall of the room having less than 20 percent open screen area.

3. This First Amendment shall be effective as of the date it is executed by all parties. The MDA, as previously enacted, shall remain in full force and effect except with the respect to those matters specifically amended by this First Amendment.

4. This First Amendment shall be recorded in the Public Records of Volusia County, Florida, at the Owner's expense. The dimensional requirements imposed by this First Amendment shall be binding upon all successors in interest in the Subject Property.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto attached their hands and seals on the dates set forth below.

Signed, sealed and delivered in the presence of:	**THE CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation**
______________________________ Witness 1	By: ______________________________ Donald O. Burnette, Mayor
______________________________ Print Name of Witness 1	Attest:
______________________________ Witness 2	By: ______________________________ Robin L. Fenwick, MMC, City Clerk
______________________________ Print Name of Witness 2	Date: ______________________________

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 ___________, 2024 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: ______________________________

My commission expires _________

Signed, sealed and delivered in the presence of:

______________________________ Witness 1	By: ______________________________ **GENEVIEVE H. COMFORT**
______________________________ Print Name of Witness 1	Date: ______________________________
______________________________ Witness 2	
______________________________ Print Name of Witness 2	

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of __________, 2024, by **GENEVIEVE H. COMFORT**. He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

____
Notary Public
Commission No. ______________________________

Signed, sealed and delivered in the presence of:

____________________________________	By: ________________________________
Witness 1	**KIMBERLY C. COMFORT**
____________________________________	Date: ________________________________
Print Name of Witness 1	
____________________________________	
Witness 2	
____________________________________	
Print Name of Witness 2	

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _________, 2024, by **KIMBERLY C. COMFORT**. He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

____
Notary Public
Commission No. ____________________________

Signed, sealed and delivered in the presence of:

______________________________ By: ______________________________
Witness 1 **GARY C. COMFORT JR.**

______________________________ Date: ______________________________
Print Name of Witness 1

____
Witness 2

____
Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _________, 2024, by **GARY C. COMFORT JR**. He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

____
Notary Public
Commission No. ______________________________

Signed, sealed and delivered in the presence of:

____
Witness 1

By: _________________________________
MARY E. COMFORT

Date: ________________________________

____
Print Name of Witness 1

____
Witness 2

____
Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _________, 2024, by **MARY E. COMFORT**. He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

____
Notary Public
Commission No. ____________________________

EXHIBIT "A"

LEGAL DESCRIPTION

Tax Parcel: 6302-49-00-0040

LOT 4, ANGELER’S COVE, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 60, PAGE 109 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

Business Impact Estimate

This form should be included in 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. 2024-18 – First Amendment to Angler's Cove Planned Unit Development Master Development Agreement (Case No. PRZA-24-0007)

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 ordinance relates to procurement; or

☒ The proposed ordinance is enacted to implement the following:

a. Development orders, and development permits, as those terms are defined in s. 163.3164; and development agreements as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243;
b. Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the municipality;
c. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
d. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
e. 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):
A request by the applicant to amend the Angler's Cove Master Development Agreement to establish a minimum 20 percent open screen area requirement for a screen room on Lot 4 of the Angler's Cove Subdivision.

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:
N/A
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible:
N/A
(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:
N/A

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:
N/A

4. Additional information the governing body deems useful[2] (if any):
This ordinance is to allow each wall or elevation for a screen room on Lot 4 to have a minimum of 20 percent open screen area. Due to the location of the screen enclosure on the subject property, configuration of the surrounding lots, and existing vegetation, having a larger percentage of the screen room with a solid wall or less open screen area is not anticipated to negatively impact any of the sounding properties.

[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.*

STAFF REPORT

First Amendment to Angler's Cove Planned Unit Development Master Development Agreement
CASE NO. PRZA-24-0007

REQUEST:	Approve an amendment to the Angler's Cove Master Development Agreement to establish a minimum 20 percent open screen area requirement for a screen room on Lot 4 of the Angler's Cove Subdivision.
LOCATION:	3657 Haller Point (Figure 1 - Location Map)
APPLICANT:	City of Port Orange
OWNER:	Gary Comfort, Jr., Genevieve Comfort, Kimberly Comfort, Mary Comfort
STAFF CONTACT:	Tim Burman, Community Development Director (386) 506-5675
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Recommended Approval 4-0 (September 26, 2024)
CITY COUNCIL:	October 15, 2024

PROPOSED AMENDMENT

The proposed 1st Amendment to the Angler's Cove Planned Unit Development (PUD) Master Development Agreement (MDA) is to establish a modified definition for a screen room for Lot 4 of the Angler's Cove Subdivision. Lot 4 of the Angler's Cove Subdivision (subject property) is located at 3657 Haller Point, south of the Admiralty Club condominium. The proposed amendment is to allow each wall or elevation for a screen room on Lot 4 to have a minimum of 20 percent open screen area.

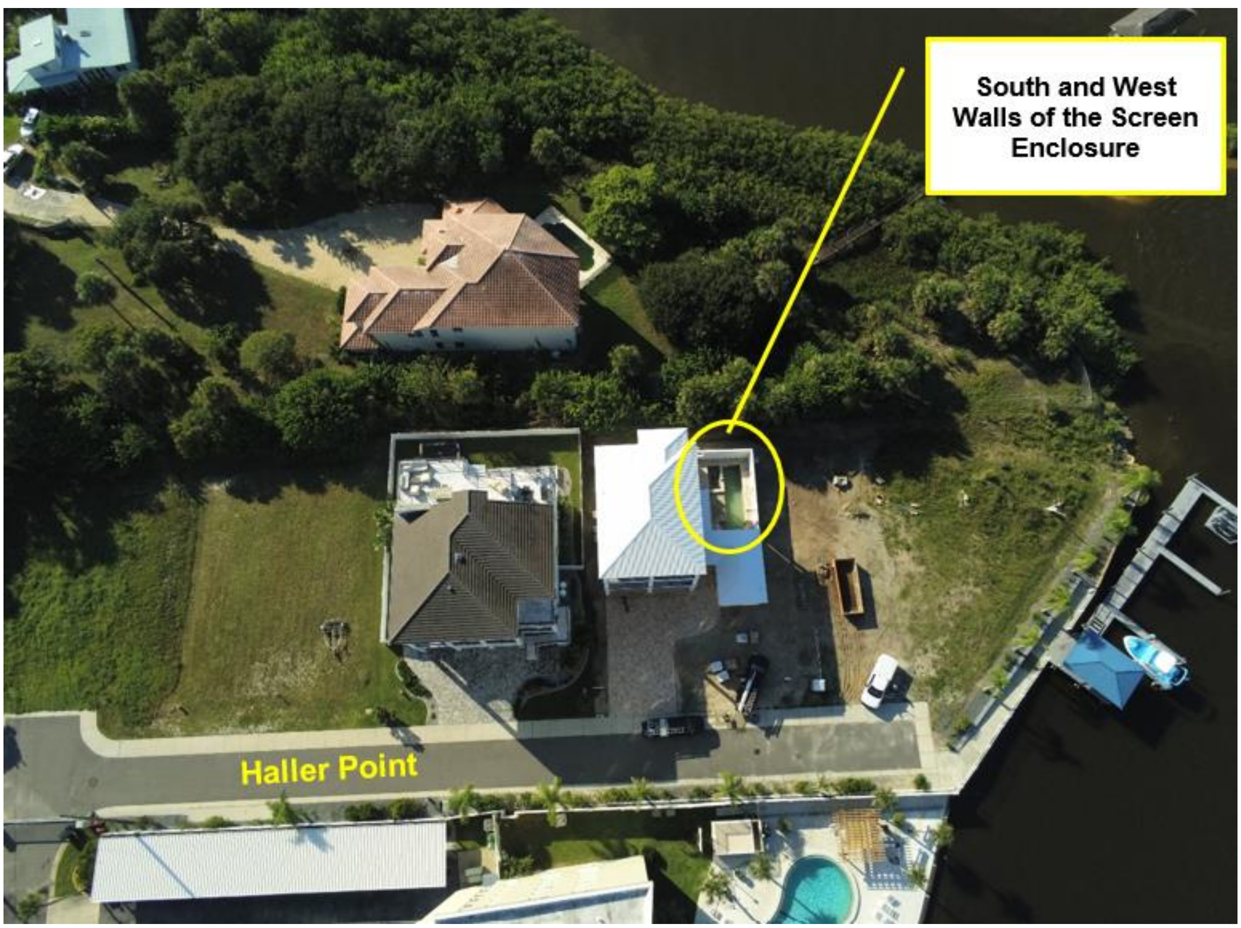
Figure 1. Location Map

According to the Land Development Code (LDC), a screen room is defined as "an addition to a structure or integral part of a structure which is enclosed with screen, permitting unobstructed flow of air in and out of the addition. A screen room may have a permanent floor and roof structure integral to the principal structure; however, for purposes of this code, no elevation of any wall of the room shall have less than 60 percent open screen area."

Since the open screen area percentage allowed for a screen room is provided in the definition for a screen room in the LDC and not a specific code requirement, a variance cannot be processed. Therefore, the only way to establish an alternative percentage requirement is to process an amendment to the MDA and create a standalone requirement to allow a minimum 20 percent open screen area requirement for a screen room. If the open screen area percentage requirement were a code requirement in the LDC and not part of a definition, this request would have been processed as a variance.

BACKGROUND
In Summer 2023, building permits were inadvertently issued that allowed for a screen room on the subject property to be constructed with only 20 percent of the enclosure consisting of an open screen area. In Spring 2023, building permit applications for a single-family home, pool, and screen enclosure on the subject property were submitted to the city. The permits were issued in Summer 2023, and construction began at the end of 2023. During a site meeting in Summer of 2024 to review the required grading for Lot 4 with the builder of the single-family home, staff observed that the exterior walls for the screen enclosure had been constructed, and there would only be about 20 percent of the screen enclosure exterior having an open screen area.

Once city staff and the contractor reviewed the approved building permit for the single-family home along with the approved building permit for the screen enclosure, it was discovered that the building plans for the single-family home included walls on the south and west sides of the pool deck, that along with the north and east exterior walls of the home created a courtyard, and the approved building permit for the screen enclosure call for a small screen wall to be attached to the south and west walls and a screen roof over the courtyard and pool. Based on the approved permits, the screen enclosure will consist of a 10-foot-tall wall with a 2-foot-tall open screen wall on the west and south sides of the pool deck, with an open screen roof.



Aerial photo of the Single-Family Home and Screen Enclosure on Lot 4 of the Angler's Cove Subdivision

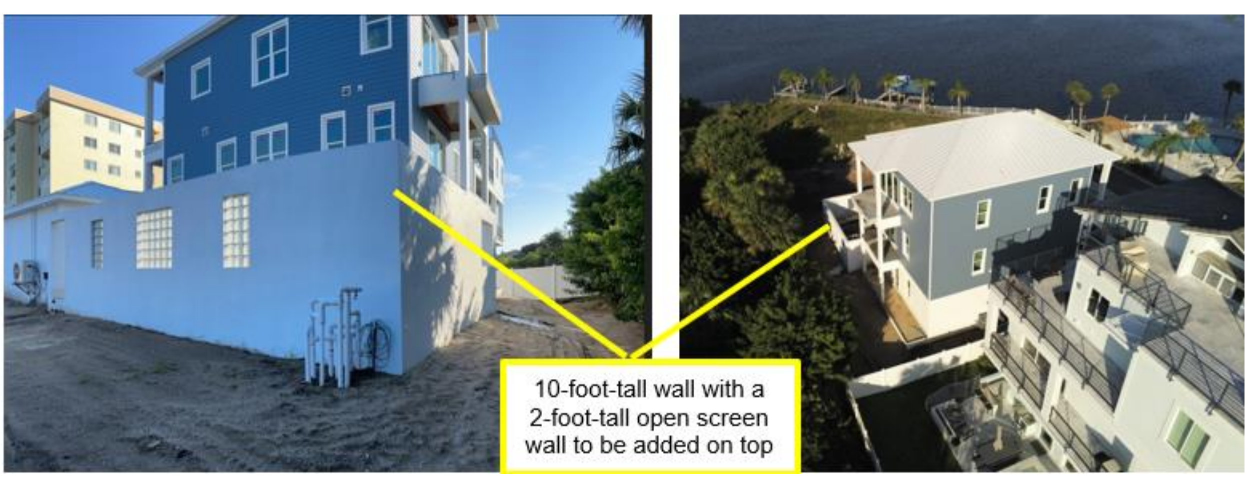
Typically, when building permits for a single-family home and pool screen enclosure are submitted at the same general time, building staff reviews the building plans for the permits for compliance with the Florida Building Code (FBC), and Community Development staff reviews the site layout plan for compliance with the dimension (setbacks, open space, building coverage, building height, etc.) and lot grading requirements in LDC and/or a MDA. This allows for an overall review of the proposed work and for staff to communicate if specific details are not fully shown on both the building and the site layout plans.

In this case, the contractor for the single-family home had the building plans reviewed by a 3rd party plan review firm (private provider) for compliance with the Florida Building Code (FBC) instead of the city's building staff. The use of a private provider to review building plans or conduct inspections on a home, building, or structure for compliance with the FBC instead of city staff is allowed by Florida Statutes. If a contractor uses a private provider to review the building plans for a single-family home, the private provider is responsible for reviewing the building plans to ensure the plans meet the requirements of the FBC. Once the private provider approves the building plans for compliance with the FBC, the contractor submits a building permit to the city. When the city receives a single-family home permit, and the plans have been reviewed and approved by a private provider, city staff will apply the required development fees (impact fees, water connect fee, stormwater fee, etc.) and verify that the site layout plan for the single-family home complies with the dimensional (setback, open space, building height, etc.), lot grading, and landscape requirements in the LDC or a MDA are met.

The site layout plan for the single-family home submitted as part of the single-family home permit showed the footprint of the single-family home and driveway, along with a pool and wall around two sides of the pool, which were to be permitted separately. It appears staff assumed that a future permit would be submitted for a 4-foot to 6-foot wall around the pool, as is typically done around new pools. Since a private provider completed the review of the building plans for this single-family home, the city review for this single-family home was limited to the site layout plan for compliance with the LDC and was not aware that the building plans for the single-family home included the walls for the screen enclosure.

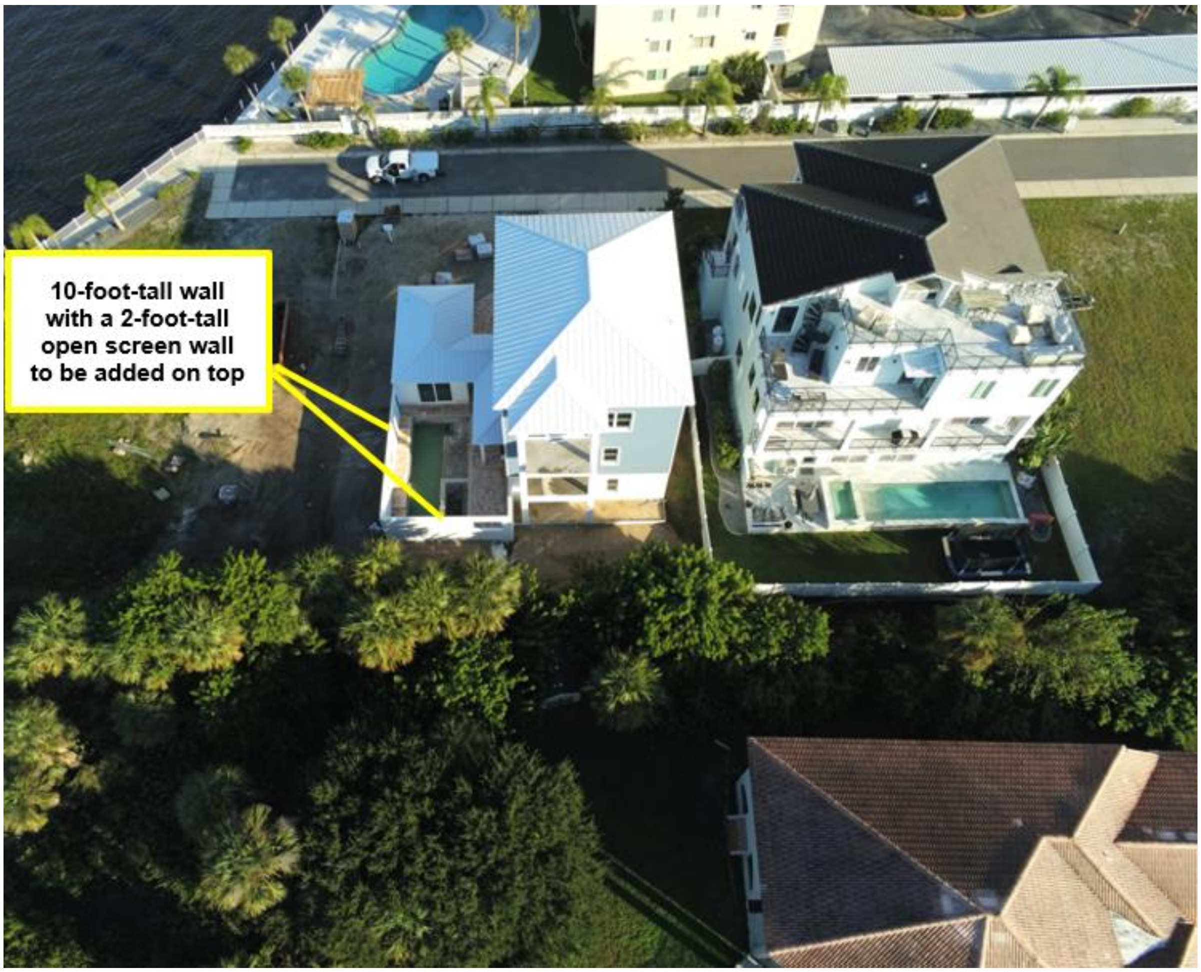
As for the screen enclosure permit, it was reviewed by city staff and met the requirements of the FBC and setback requirements in the LDC and Anglers Cove MDA, and it was assumed that the walls for the enclosure would be open screen area from top to bottom, as typically seen with pool screen enclosure.

If the amendment is approved, it will allow the two walls that make up the pool screen enclosure to have a minimum of 20% open screen area instead of the 60% required by the LDC. The proposed amendment only applies to Lot 4 and does not modify any dimensional requirements in the LDC or Anglers Cove MDA.



There is adequate separation or existing vegetation between the screen enclosure and the adjacent homes to the south and east to minimize the visual appearance of the screen room from adjacent properties. Due to the location of the screen enclosure on the subject property, configuration of the surrounding lots, and existing vegetation, having a larger percentage of the screen room with a solid wall or less open screen area is not anticipated to negatively impact any of the sounding properties.

The south wall of the enclosure is set 15 feet from the south property and meets the setback requirement for a screen enclosure, according to the LDC. If the south wall was set 5 feet to the north, the screen room wall would have met the 20-foot rear setback, and the proposed amendment would not have been required. Therefore, approval of the MDA amendment does not allow a screen enclosure that would not typically be allowed on this lot; it just allows there to be a screen enclosure with less open screen to be closer to a property line then typically allowed. As indicated above, due to the location of the screen room on the subject property, existing vegetation in the area, and configuration of the adjacent home, a screen enclosure with less open screen area than required by code is not anticipated to negatively impact the adjacent properties.



Aerial Photo of Lot 4 and the Surrounding Properties

CONSISTENCY WITH COMPREHENSIVE PLAN

The subject property is designated *Suburban Residential* (2-4 units/acre) on the City's Future Land Use (FLU) Map. The Angler's Cove PUD was found to be consistent with the Comprehensive Plan when it was approved in 2018. The proposed amendment does not change the FLU designation or density allowed for the subject property and is consistent with the general intent of the Comprehensive Plan.

PUBLIC NOTICE
A Public Notice sign was posted on the site on September 6, 2024. As of September 20, 2024, staff has not received any phone calls regarding the proposed PUD Amendment.

RECOMMENDATION
Staff recommends **approval** of the First Amendment to the Angler's Cove PUD Master Development Agreement.

ATTACHMENT
Exhibit 1 – First Amendment to the Angler's Cove PUD Master Development Agreement (see Ordinance Exhibit)

CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 11/6/2024

SUBJECT: (H15) Second Reading - Ordinance No. 2024-20 - Land Development Code (LDC) Amendment/Chapter 20 - Relating to Eligibility for Economic Development Incentives

DEPARTMENT: Community Development

GOAL: 4 - Economic Development

RECOMMENDED MOTION: Move to approve Ordinance No. 2024-20.

SUMMARY: Planning Commission Action (9/26/24): Recommended Approval 4-0

Over the last several years, staff has prepared amendments to support the City's redevelopment efforts to create commercial/entertainment destination areas within the Port Orange Town Center Community Redevelopment Area (CRA). Those amendments included adding uses such as "Brewery" and "Farmers Market," incentives for the redevelopment of targeted businesses, establishing site development standards for the redevelopment of infill commercial properties, alternative signage options, and entertainment districts (Riverwalk and Down Under). Like the past amendments, the proposed amendment is intended to support existing businesses and encourage business development that provides entertainment activities such as live music or performances, restaurants, breweries, and places to gather.

Amendment #1: Removal of Conflicting Requirements:

The proposed amendment includes various formatting and revisions to clarify existing text. These include revising specific references to code requirements to be more general, updating language that city impact fees (Fire, Police, and Transportation) and City Water and Sewer Development Fees can be deferred until a Certificate of Occupancy or Letter of Completion is requested to be consistent with the recently adopted requirements in Chapter 21 of the Land Development Code (LDC) and past practice, and remove references to being able to provide credits for City Water and Sewer Development Fees.

Amendment #2: Extend Timeframe to Request Fee Refund:

Over the last several years, the City has approved Economic Incentive Agreements (EIA) that waived or refunded building permit or site development (PUD/PCD, Site Plan, Future Land Use Amendment, Rezoning, etc.) fees for recent projects in the Port

Orange Town Center CRA or Eastport Business Center CRA. However, a few redevelopment projects were developed before the City emphasized development in the CRAs, and building permits or site development fee waivers were not used to encourage development. The proposed amendment allows developers that have built successful targeted businesses within either CRA to request that the City Council consider refunding building permits and site development fees for a targeted business project developed over the last six years and still operating as a successful targeted business within the CRA.

The LDC currently allows the City Council to consider waiving or refunding building permits and site development fees for targeted businesses developed, but the request must be made within one year from when the Certificate of Occupancy was issued. The list of city-wide targeted businesses is defined in the LDC and includes the following uses: marina; full-service hotel with multi-room conference center serving not less than 500 conference participants; college/university; aviation operations; professional sport operations; entertainment industry operations; regional distribution facility; Fortune 500 company; corporate headquarters; master developer(s) for the riverwalk, causeway or down under districts; master developer(s) for the Eastport Business Center redevelopment area; commercial or industrial venture(s) promising extensive value-added jobs; any other enterprise/project referenced within the City's vision statement.

The proposed amendment extends the timeframe a developer of a targeted business in a CRA can request an EIA to waive or refund building permit and site development fees to six years from when the Certificate of Occupancy was issued. In addition to being a targeted business and in a CRA, the business for which the initial certificate of occupancy (C/O) was issued must still be operating. The proposed amendment does **NOT** change the process for requesting an EIA; the council reviews all requests, and the council can award or decline to enter into an EIA with any particular business or targeted business. The proposed amendment could encourage developers to reinvest these funds in the CRAs or other targeted areas to expand their business or other redevelopment opportunities.

The Staff Report is attached for more information.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	Ordinance No. 2024-20	Ordinance No. 2024-20.pdf
2.	STAFF REPORT	STAFF REPORT.pdf
3.	Revised Business Impact Estimate - ORD 2024-20 - DCAM-24-0001	Revised Business Impact Estimate - ORD 2024-20 - DCAM-24-0001.pdf

Penelope Cruz — Created/Initiated - 10/25/2024
Amanda Bonin — Final Approval - 10/25/2024

<u>ORDINANCE NO. 2024-20</u>

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE CHAPTER 20 RELATING TO ELIGIBILITY FOR ECONOMIC DEVELOPMENT INCENTIVES AND UPDATING LANGUAGE RELATED TO IMPACT FEES; 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 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 (<u>underlined</u>) 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:

<u>SECTION 1:</u> The City Council of the City of Port Orange hereby amends Chapter 20, Section 2 of the Land Development Code, to read as follows:

Chapter 20 – ECONOMIC DEVELOPMENT INCENTIVES

Section 2: - Overview of available city incentives.

Section 2: Overview of available city incentives.

[No changes to subsections (a) and (b)]

(c) *Deferment of impact fee payments.* Payment of city impact fees and city water and sewer development fees may be deferred in accordance with the Land Development Code ~~Upon written request, payment of city water and sewer fees and recreation impact fees may be deferred to a later point in the development review process. Rather than being paid just prior to the issuance of the building permit(s), these fees may be paid just prior to the issuance of the certificate of occupancy~~. Payment of county road and school impact fees may be deferred in a similar fashion, pursuant to ~~article III, section 70-75(2)(b) of~~ the Volusia County Code of Ordinances.

[No changes to subsections (d) through (i)]

(k) *Targeted businesses program.* The targeted businesses program (TBP) is hereby created to provide assistance to unique business ventures which, from time to time, may be targeted by the city by virtue of the anticipated socio-economic benefits. Targeted businesses may be extended incentives to aid in retaining their operations within the city; to aid in enhancing/expanding their operations in the city, or to aid in relocating their operations to viable property within the city. If approved, an agreement shall be prepared outlining the given incentives, their allocation and the conditions applicable thereto. The agreement shall then be executed and carried out in accordance with its terms.

(1) *Targeted businesses—City-wide.* The following businesses shall be targeted businesses city-wide and may be extended assistance by the city pursuant to review and approval by the city council: marina; full service hotel with multi-room conference center serving not less than 500 conference participants; college/university; aviation operations; professional sport operations; entertainment industry operations; regional distribution facility; Fortune 500 company; corporate headquarters; master developer(s) for the riverwalk, causeway or down under districts; master developer(s) for the Eastport Business Center redevelopment area; commercial or industrial venture(s) promising extensive value-added jobs; any other enterprise/project referenced within the city's vision statement; and any other enterprise/project proposed and supported by ordinance of council.

(a) *City council approval.* The city council shall retain the sole discretion to award or decline incentives in whole or in part and shall be under no obligation to enter into an incentive agreement with any particular business whether or not listed in subsection (k)(1) as stated above. In arriving at a decision the council shall consider the critical factors, including but not limited to the following: number of jobs, number of value added jobs, average wage, type of business venture, how the business venture addresses the critical needs within the city, location of business venture, value of construction, significance of improvements, anticipated tax revenue, multiplier implications on the local economy, health of the economy, availability of city funds and other factors deemed essential by the city council. To be considered by council, a written request providing a detailed overview of the business/project and the circumstances surrounding the need for assistance, shall be submitted to the city.

(b) *Possible incentives.* Possible city incentives which may be extended to a targeted business as defined herein include, but shall not be limited to, one or more of the following: waive fees for applications, permits and/or inspections; grants/loans; ~~water/sewer impact fee credits/deferrals;~~ wetland mitigation; engineering, landscaping, surveying, architectural design services; pre-permitted sites; dollars for value-added jobs; utility cost-sharing; and expedited review and approval.

(c) *Request.*

(1) For properties not located in the Port Orange Town Center or Eastport Business Center redevelopment areas, ~~R~~requests shall be filed with the city within one year of the issuance of a certificate of occupancy (C/O).

(2) For properties located in the Port Orange Town Center or Eastport Business Center redevelopment areas, requests shall be filed with the city within six years of the issuance of a certificate of occupancy (C/O) so long as the business for which the certificate of occupancy (C/O) was initially issued is still operating.

(d) *Accountability.* In situations where the city council elects to issue a grant based on the type, number and/or wages associated with jobs to be created then the required agreement shall specify; a) by what time (e.g. 18 months from commencement of construction) the targets must be met; b) the penalty specifics if the targets are not met, such as reimbursing the city to a prorated dollar amount based on the number/type/wage of jobs falling short of the respective targets, with interest; and c) when the city's grant shall be issued meaning at the time the certificate of occupancy is issued, half now/half later or when the targets are met. Incidentally, the city shall verify whether targets have been met by reviewing an audit of the business in question at their expense. In situations where the city council elects to issue a grant based on the size and/or value of the physical improvements to the property, then the agreement shall address similar specifics.

(2) *Targeted businesses—Ridgewood Corridor.* The following businesses shall be targeted businesses along the Ridgewood Corridor and may be extended assistance by the city: restaurants; professional offices; adult/vocational education; appliance/electronic repair shops; business service; convenience stores without fuel operations; financial services; fleet-based services; health/exercise club; laboratory, research and development; personal services; developments that assemble land to create a connection from Ridgewood to the riverfront; water-based businesses (e.g. watersports sales and rentals, such as kayaks, jet skis, paddle boards, etc., water taxis, boat tours, fish markets, bait and tackle shops); eco-tourism (e.g. guided tours); grocery store; craft food and beverage producer; microbrewery; manufacturing (craftsman shop and limited); retail home building materials; and any other enterprise/project with an anticipated socio-economic benefit and supported by the city council.

(a) *Approval.* The city manager is authorized to award or decline incentives in whole or in part and shall be under no obligation to enter into an incentive agreement with any particular business whether or not listed in subsection (k)(2) as stated above. In arriving at a decision, the city manager shall consider the following factors, including but not limited to: whether the proposed business may conceivably spur similar investment in surrounding properties, whether the proposed business is expected to have a positive socio-economic impact on the Ridgewood Corridor, availability of city funds and other factors deemed essential by the city manager. To be considered by the city manager, a written request providing a detailed overview of the business/project and the circumstances surrounding the need for assistance, shall be submitted to the city. Priority for redevelopment grants shall be as identified in subsection (j)(2).

(b) *Possible incentives.* Possible city incentives which may be extended to a targeted business as defined herein include, but shall not be limited to, one or more of the following: waive fees for planning and engineering applications, permits and/or inspections; grants/loans; ~~water/sewer impact fee credits/deferrals;~~ dollars for value-added jobs; utility cost-sharing; phased site improvements; and expedited review and approval.

[No changes to sub-subsections (c) through (g)]

SECTION 2: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 4. 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 5. 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 6. 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, Senior Assistant City Attorney

STAFF REPORT

CASE NO. DCAM-24-0001

LDC Amendment/Chapter 20

REQUEST:	Approve amendments Chapter 20 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:	Tim Burman, Community Development Director (386) 506-5675
PLANNING COMMISSION:	Recommended Approval 4-0 (September 26, 2024)
CITY COUNCIL:	October 15, 2024

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: Removal of Conflicting Requirements (Chapter 20)

The proposed amendment includes various formatting and revisions to clarify existing text. These include revising specific references to code requirements to be more general, updating language that city impact fees (Fire, Police, and Transportation) and city water and sewer development fees can be deferred until a Certificate of Occupancy or Letter of Completion is requested to be consistent with the recently adopted requirements in Chapter 21 of the Land Development Code and past practice, and remove references to being able to provide credits for water or sewer development fees.

Amendment #2: Extend Timeframe to Request Fee Waiver or Refund
Over the last several years, the City has approved Economic Incentive Agreements (EIA) that waived or refunded building permit or side development (PUD/PCD, Site Plan, Future Land Use Amendment, Rezoning, etc.) fees for recent projects in the Port Orange Town Center Community Redevelopment Area (CRA) or Eastport Business Center CRA. The LDC currently allows the City Council to consider waiving or refunding building permit and site development fees for targeted businesses developed, but the request must be made within one year from when the Certificate of Occupancy was issued. The list of city-wide targeted businesses is defined in the LDC and includes the following uses: marina; full-service hotel with multi-room conference center serving not less than 500 conference participants; college/university; aviation operations; professional sport operations; entertainment industry operations; regional distribution facility; Fortune 500 company; corporate headquarters; master developer(s) for the riverwalk, causeway or down under districts; master developer(s) for the Eastport Business Center redevelopment area; commercial or industrial venture(s) promising extensive value-added jobs; any other enterprise/project referenced within the City's vision statement.

The proposed amendment extends the timeframe a developer of a targeted business in a CRA can request an EIA to waive or refund building permit and site development fees to six years from when the Certificate of Occupancy was issued. In addition to being a targeted business and in a CRA, the business for which the initial certificate of occupancy (C/O) was issued must still be operating. The proposed amendment does **NOT** change the process for requesting an EIA or that the City Council reviews all requested EIAs, and the council can award or decline to enter into an EIA with any particular business or targeted business.

Over the last several years, staff has prepared amendments to support the City's redevelopment efforts to create commercial/entertainment destination areas within the Port Orange Town Center CRA. Those amendments included adding uses such as "Brewery" and "Farmers Market," incentives for the redevelopment of targeted businesses, establishing site development standards for the redevelopment of infill commercial properties, alternative signage options, and entrainment districts (Riverwalk and Down Under). Like the past amendments, the proposed amendment is intended to support existing businesses and encourage business development that provides entertainment activities such as live music or performances, restaurants, breweries, and places to gather.

RECOMMENDATION
Approval of the amendments to Chapter 20 of the Land Development Code.

ATTACHMENT
Exhibit 1 – Proposed Amendments to Chapter 20 of the Land Development Code (see Ordinance Exhibit)

Business Impact Estimate

This form should be included in 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. 2024-20 – LDC Amendment/Chapter 20 - Relating to Eligibility for Economic Development Incentives (Case No. DCAM-24-0001)

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 ordinance relates to procurement; or

☒ The proposed ordinance is enacted to implement the following:

a. Development orders, and development permits, as those terms are defined in s. 163.3164; and development agreements as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243;
b. Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the municipality;
c. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
d. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
e. 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 amendment to Chapter 20 of the Land Development Code is intended to support existing businesses and encourage business development that provides entertainment activities such as live music or performances, restaurants, breweries, and places to gather.

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: N/A (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible: N/A (c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs: N/A

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: N/A

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 11/6/2024

SUBJECT: (I16) Second Reading - Ordinance No. 2024-21 - Amendment to Chapter 54, Article V, Police Pension Fund of the Code of Ordinances

DEPARTMENT: Finance

GOAL: 1 - Public Safety
6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve first reading of Ordinance No. 2024-21 amending the Police Pension Fund.

SUMMARY: The City Council approved the Collective Bargaining memorandum of understanding and agreements between the the International Union of Police Associations (IUPA) and Coastal Florida Police Benevolent Association Lieutenants (PBALT) on September 17, which included amendments to the retirement plan articles. The Plan Actuary, Freiman Little Actuaries, LLC, completed an updated actuarial impact statement. This ordinance is required to implement the pension changes negotiated by the two police unions.

The changes are as follows:

Section 54-130 - Calculation of benefit amount.

1. Amends the eligibility of the supplemental benefit (medical stipend) from twenty-five to twenty years of credit service for Tier 1 members.

2. Amends the eligibility for a three (3) percent cost-of-living with twenty years of credit service for both Tier 1 and Tier 2 members when the participant attains the age of 59.

3. Amends the maximum total benefit (MTB) provided to exclude the supplemental benefit (medical stipend) from the $95,000 MTB for Tier 1 members.

Preliminary estimates for fiscal year 2024–2025 show that this amendment will cost the city $227,299 in additional required contributions to the police pension fund as part of the October 1, 2023, valuation for contributions through September 30, 2025. Funds to cover the additional contribution are included in the approved FY2024-2025 adopted budget.

PRESENTER: John McKinney

ATTACHMENTS:

1.	Port Orange Police Pension Ord Amending Supp Ben and COLA MJ10.23.24	Port Orange Police Pension Ord Amending Supp Ben and COLA MJ10.23.24.pdf
2.	20240926 Port Orange Police Impact Statement CBA	20240926 Port Orange Police Impact Statement CBA.pdf
3.	BIE - Ord. No. 2024-21 Police Pension Changes	BIE - Ord. No. 2024-21 Police Pension Changes.pdf

Amanda Bonin Created/Initiated - 10/25/2024

ORDINANCE NO. 2024-21

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 54, ARTICLE V, POLICE PENSION FUND, AMENDING SECTION 54-130, BENEFIT LEVEL, AMENDING SUPPLEMENTAL BENEFIT ELIGIBLITY FOR CERTAIN MEMBERS; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange, Florida has entered into a collective bargaining agreement with the Coastal Florida Police Benevolent Association Lieutenants (PBALT) for the period October 1, 2024 through September 30, 2026; and

WHEREAS, the City of Port Orange, Florida has entered into a collective bargaining agreement with the Port Orange Police Association , I.U.P.A. Local 6051 (Police Officers and Sergeants) for the period October 1, 2023, through September 30, 2026; and

WHEREAS, the collective bargaining agreements for PBALT and IUPA contain changes to retirement benefits under the City of Port Orange Police Pension Fund; and

WHEREAS, in order to implement the changes to the Police Pension Fund contained in the collective bargaining agreements, an amendment to Chapter 54 of the City Code is necessary; and

WHEREAS, the City has obtained an actuarial impact statement concerning the retirement plan changes in accordance with Article X, Section 14 of the Florida Constitution and Section 112.63, Florida Statutes; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AS FOLLOWS:

<u>SECTION 1:</u> Section 54-130, Benefit level, of the Port Orange Police Pension Fund is hereby amended as follows:

Sec. 54-130. Benefit level.

(a) *Calculation of benefit amount.*

(1) For participants retiring on or after the effective date of the ordinance from which this article is derived, a participant's normal monthly benefit level shall be the product of the vesting credits earned multiplied by three percent of average final compensation, plus the applicable amount as follows:

a. Two hundred dollars per month if the participant retires with ten vesting credits, provided that participants retiring on or after October 1, 2002 must have 20 vesting credits to receive this benefit, except that any participant in the employment of the city on October 1, 2002 who had attained age 50 and had at least ten vesting credits on that date shall upon retirement be granted this benefit.

b. An additional $20.00 per month for each vesting credit earned by the participant in addition to ten vesting credits, up to a maximum additional amount of $400.00 per month, provided that participants retiring on or after October 1, 2002 must have twenty vesting credits to receive this benefit, except that any participant in the employment of the city on October 1, 2002 who had attained age 50 and had at least ten vesting credits on that date shall upon retirement be granted this benefit.

c. The maximum total benefit amount provided under subsections (a) and (b) of this subsection shall not exceed $600.00 per month.

d. Notwithstanding the provisions of subparagraphs a. and b. above, participants who are employed and not participating in the DROP on January 31, 2011, must attain 25 vesting credits to be eligible for the benefits provided in subparagraphs a. and b. above. <u>Notwithstanding the preceding sentence, participants who were employed and not participating in the DROP on January 31, 2011 and retire or enter the DROP after November 6, 2024, must attain 20</u>

<u>vesting credits to be eligible for the benefits provided in subparagraphs a. and b. above.</u>

e. Notwithstanding the provisions of subparagraphs a. and b. above, participants who are hired after January 31, 2011, and earn at least ten vesting credits shall, upon retirement, be eligible for an additional benefit equal to $100.00 per month; and an additional benefit of $10.00 per month for each vesting credit earned by the participant in excess of ten vesting credits, up to a maximum of $100.00; subject to a total maximum additional benefit amount of $200.00 per month.

(2) For participants retiring before October 1, 1993, the monthly benefit level shall be the product of the vesting credits earned multiplied by two percent of average final compensation, plus the applicable amounts provided in subparagraphs (a), (b) and (c) of paragraph (1), above, plus a cost-of-living adjustment which shall commence on January 1, 1994. Effective January 1, 1994, the pension benefit payable to any participant who retired prior to October 1, 1993, shall be increased by the percentage by which the Consumer Price Index (urban wage earner as calculated by the United States Department of Labor) increased between July of the immediately preceding year as compared to July of the prior year. These cost-of-living adjustments shall be made annually until the participant's benefit level reaches the amount provided in subsection (a) (1), above, at which time such cost-of-living adjustments shall cease, except as provided in paragraph (4) below. In no event shall the pension benefit payable to participants who retired before October 1, 1993, exceed the benefit level that is the product of the vesting credits earned by such participants multiplied by three percent of average final compensation, plus the applicable cost of living adjustment provided in paragraph (4), below, plus the applicable amounts provided in subparagraphs (a), (b) and (c) of paragraph (1), above.

(3) The actual benefit amount is determined by making the adjustment, if any, for early retirement and for the form of benefit which the participant selects in accordance with this pension plan.

(4) Notwithstanding paragraph (2) of this subsection, effective October 1, 2001, all then current and future retirees who retire before October 1, 2002, including disability retirees, shall be granted a cost-of-living adjustment annually, equal to one percent of their then-current annuity amount, commencing on the January 1 following the first anniversary of the retiree's annuity commencement. For a DROP

retiree, the increase shall be granted commencing on the January 1 following the first anniversary of the annuity commencement that begins at the end of the DROP period. Effective October 1, 2002, all current and future participants retiring on or before January 31, 2011, who have attained 20 vesting credits shall be annually granted a cost-of-living (COLA) increase of three percent of their then-current annuity amount, except that any participant in the employment of the city on October 1, 2002 who had attained age 50 and had at least ten vesting credits on that date shall upon retirement be granted such annual three percent COLA commencing:

a. Upon the 61st month following commencement of DROP participation or receipt of pension benefits for participants who retired or entered the DROP upon or after attaining age 45 and earning 25 vesting credits or upon after attaining age 50 and earning 20 vesting credits;

b. Upon the later of the 61st month following commencement of DROP participation or receipt of pension benefits or the first day of the month after or upon which the participant attains age 59 for participants who retired upon or after attaining age 48 and earning 20 vesting credits, except employees hired on or after January 1, 2003, shall not be eligible for these increases;

c. On the first day of the month after or upon which the participant attains age 59 for participants who separated from city employment after earning 20 vesting credits but before being eligible to receive pension benefits; except employees hired on or after January 1, 2003, shall not be eligible for these increases;

d. Upon the 61st month following the commencement of disability benefits. The one percent annual cost-of-living adjustment shall not be paid to participants who retire on or after October 1, 2002, or to any participant eligible to receive a three-percent cost-of-living increase.

(5) Notwithstanding the provisions of paragraph (4) above, participants who are employed and not participating in the DROP on January 31, 2011, must attain 25 vesting credits to be eligible for a cost-of-living (COLA) increase. The annual COLA for such participants shall be equal to three percent of their then current annuity amount, and shall commence on the first day of the month after the participant attains age 59.

(6) Notwithstanding the provisions of paragraph (4) above, participants hired after January 31, 2011, who separated from service before November 6, 2024, shall not be eligible for a cost-of-living adjustment.

(7) Notwithstanding anything herein to the contrary, participants who are employed and not participating in the DROP on November 6, 2024, and participants hired thereafter, who separate from city employment after earning 20 vesting credits, shall, upon retirement, be eligible for a cost-of-living (COLA) equal to three percent of their then current annuity amount, which shall commence on the first day of the month after the participant attains age 59.

(8) For participants who are employed and not participating in the DROP on January 31, 2011, and for participants hired after that date, the maximum total benefit amount provided under section 54-130 shall not exceed $95,000.00, inclusive of any cost of living adjustments to which the member may be entitled. Effective November 6, 2024, for participants employed and not participating in the DROP on January 31, 2011, who retire or enter the DROP after November 6, 2024, additional benefit amounts provided for under sub-paragraphs (1)a. and b. of this subsection 54-130 (a) shall not be included in a participant's benefit for purposes of determining compliance with the maximum total benefit provided for herein.

SECTION 2. Specific authority is hereby granted to codify and incorporate this ordinance in the existing Code of Ordinances of the City of Port Orange.

SECTION 3. All ordinances or parts of ordinances in conflict with 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, 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 5. 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 _____________, 2024.

Passed and adopted on second and final reading on the ______ day of ___________________, 2024.

Reviewed and Approved: ____
Matthew J. Jones, City Attorney

FLA
FREIMAN LITTLE ACTUARIES

September 26, 2024

Karan Rounsavall
Pension Administrator
City of Port Orange Police Officers' Pension Fund
3695 Indian River Drive
Cocoa FL 32926

Re: Estimated Impact of Proposed Ordinance

Dear Karan:

This letter is being written to provide an impact statement regarding the attached proposed ordinance which modifies the City of Port Orange Police Officers' Pension Fund (the Plan).

Summary of Changes

See the attached Exhibit A providing a side-by-side summary of Plan provisions. The proposed ordinance contains the following changes. For purposes of this summary, note that members hired on or before 1/31/2011 are commonly referred to as "Tier 1" and members hired after 1/31/2011 are commonly referred to as "Tier 2."

Tier 1 Supplemental Benefit: The monthly benefit described as (a) $200 plus (b) $20 x Service over 10 years (Maximum $400) is commonly referred to as the "Supplemental Benefit." Whereas before the proposed ordinance amendment the Tier 1 Supplemental Benefit was payable if 25 years of service are earned during employment, subsection 54-130(a)(1)d.) improves eligibility to 20 years.

3% Cost-of-Living Adjustment (COLA) at Age 59: Before the proposed ordinance, only Tier 1 members receive a 3% annual COLA payable commencing at age 59 if 25 years of service are earned during employment. Subsection 54-130(a)(6) is modified to (a) continue to provide that Tier 2 members who terminate before passage of the proposed ordinance are not eligible for a COLA, but that (b) all Tier 1 and Tier 2 members who are employed and not participating in the DROP on the date the proposed ordinance passes are eligible for a 3% annual COLA commencing at age 59 if 20 years of service are earned during employment.

$95,000 Annual Maximum: Before the proposed ordinance, benefits payable under the Plan could not exceed $95,000 annually. With the proposed ordinance, the Tier 1 Supplemental Benefit is not taken into account when determining if benefits are subject to the $95,000 maximum. Note that whereas subsection 54-130(a)(8) states the benefits described in *54-130(a)(1)**b.**-d.* shall not be included in the participant's benefit for purposes of determining compliance with the maximum total benefit, we understand this to be a scrivener's error and that the italicized wording should be revised to *54-130(a)(1)**a.**-d.* because according to the collective bargaining agreement the entire Tier 1 Supplemental Benefit is exempted. For this statement the entire Tier 1 Supplemental Benefit is not taken into account when determining if benefits are subject to the $95,000 maximum.

Actuarial Impact

The estimated impact has been determined based on the data, assumptions and methods shown in the October 1, 2023 actuarial valuation of the Plan dated August 18, 2024 (revised from February 26, 2024), except as follows.

We calculated the liability using three different sets of retirement decrements and used the value which resulted in the largest accrued liability for each member. The three sets of retirement decrements are (1) the valuation Tier One retirement assumptions, (2) the Tier One valuation retirement assumptions revised to assume 100% retirement at 20 years of service regardless of age, and (3) the valuation Tier Two retirement assumptions to include eligibility at age 48 with 10 years of service.

We understand that the proposed ordinance will not be adopted until after September 30, 2024. As such, the October 1, 2023 actuarial valuation of the Plan dated August 18, 2024 (revised from February 26, 2024), shows the Minimum Required Contribution for the fiscal year ending September 30, 2025.

If the proposed ordinance is adopted during the year ending September 30, 2025, funding for these benefit improvements must begin no later than October 1, 2025 for the fiscal year ending September 30, 2026 as shown in the actuarial valuation as of October 1, 2024, which is yet to be completed. This impact statement will provide the best estimate of the proposed changes until that valuation is produced.

The impact of a benefit change can be looked at from several different perspectives. We can look at the change in the present value of projected benefits, the change in the normal cost, the change in the accrued liability, the change in the funded percentage, or the change in annual contributions.

- The Present Value of Benefits (PVB) is the present value, as of the valuation date, of all benefits that will become payable by the Plan for the current group of members in the census. The change in the PVB due to the proposed provisions is shown in Exhibit B.
- The Accrued Liability (AL) is the portion of the PVB attributable to the past at the valuation date. For active members, AL is the annual Normal Cost (NC) accumulated from date of entry to the valuation date for each Member. For retired and terminated members, the PVB and the AL are equal. The AL is the estimated liability at the valuation date. The Unfunded Accrued Liability (UAL) represents any excess of the Accrued Liability over the fund assets. A negative UAL indicates fund assets are greater than the Accrued Liability, otherwise known as a surplus. The Funded Percentage is a ratio of the fund assets divided by the Accrued Liability. The change in the UAL and Funded Percentage due to the proposed provisions is shown in Exhibit C.
- Normal Cost is the value of the portion of the total benefit for active members which accrues in the year following the valuation date. Under the Entry Age Normal (Level Percent of Salary) funding method, the NC is a constant fraction of salary from the member’s date of entry into the Plan to the member’s assumed date of termination, retirement, disability or death. The change in the NC due to the proposed provisions is shown in Exhibit D.
- The Minimum Required Contribution shown in Exhibit E determines the impact of the proposed provisions on the minimum contribution for the fiscal year ending September 30, 2025. The actual contribution payable for the fiscal year ending September 30, 2025 is as shown in the October 1, 2023 actuarial valuation unless the ordinance is adopted before September 30, 2024. Should the ordinance be adopted before September 30, 2024, this impact statement overrides the minimum required contribution shown in the October 1, 2023 actuarial valuation.

Note: The impact provided is an estimate for the funding of the Plan. Accounting impacts will be different as plan changes are fully recognized in a single year’s expense for accounting purposes.

Required Disclosures

- The purpose of this impact statement is to estimate the value of benefits for the proposed changes. No third-party recipient of this work product should rely upon this work for any purpose other than as stated. Such recipients should engage qualified professionals for advice appropriate to their own specific needs. The consultants who worked on this assignment are pension actuaries. Our advice is not intended to be a substitute for qualified legal, tax or accounting counsel.
- Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that

anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law.

- In preparing our report we relied, without audit, on information (some oral and some written) supplied by the City and the Administrator. This information includes, but is not limited to, statutory provisions, employee census, and financial information. In our examination of these data, we have found them to be reasonably consistent and comparable with data used for other purposes. Since the valuation results are dependent on the integrity of the data supplied, the results can be expected to differ if the underlying data is incomplete or missing. It should be noted that if any data or other information is inaccurate or incomplete, our calculations may need to be revised.
- We understand that the ASOP 51 disclosures in the actuarial valuation report provide sufficient risk assessment and are not being modified as part of this study.
- In producing our work product, we rely on various models, internal and external, which were used for their intended purposes. Underlying data, assumptions, methodologies, model inputs and resulting outputs have been reviewed.
- The signing actuaries are independent of the plan sponsor. We are not aware of any relationship that would impair the objectivity of our work.
- On the basis of the foregoing, we hereby certify that, to the best of our knowledge and belief, this report is complete and accurate and has been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with Actuarial Standards of Practice, the Code of Professional Conduct and Qualification Standards for Public Statements of Actuarial Opinion of the American Academy of Actuaries. We meet the Qualification Standards under the American Academy of Actuaries to render the actuarial opinion contained.

Please let us know if you have any questions or need additional information.

Sincerely,

Chad M. Little, ASA, EA	Paula C. Freiman, ASA, EA
Partner, Consulting Actuary	Partner, Consulting Actuary
Enrollment Number 23-6619	Enrollment Number 23-5796

CITY OF PORT ORANGE POLICE PENSION FUND

EXHIBIT A

Compare Current Plan to DRAFT Ordinance

	Current Plan Before Changes		Draft Ord No. 2024-XX	
	Tier 1 (Hire<1/31/11)	Tier 2 (Hire>1/31/11)	Tier 1 (Hire<1/31/11)	Tier 2 (Hire>1/31/11)
Employee Contributions:	7.5%	8.0%	7.5%	8.0%
Average Final Compensation (AFC):	3-Year Average	3-Year Average	3-Year Average	3-Year Average
Normal Retirement Date (NRD):	48/10 or 0/20	48/10 or 0/20	48/10 or 0/20	48/10 or 0/20
Multiplier:	3.00%	3.00%	3.00%	3.00%
Normal Retirement Benefit:	3.00% x AFC x Service PLUS If work 25+ Years, lesser of $600 and ($200 plus $20 x Service Over 10 Years)	3.00% x AFC x Service PLUS lesser of $200 and ($100 plus $10 x Service Over 10 Years)	3.00% x AFC x Service PLUS If work 20+ Years, lesser of $600 and ($200 plus $20 x Service Over 10 Years)	3.00% x AFC x Service PLUS lesser of $200 and ($100 plus $10 x Service Over 10 Years)
Early Retirement Date:	45/10	45/10	45/10	45/10
Early Retirement Benefit:	3% per year reduction from NRD	3% per year reduction from NRD	3% per year reduction from NRD	3% per year reduction from NRD
COLA:	If work 25+ Years, 3% annual COLA commencing age 59	None	If work 20+ Years, 3% annual COLA commencing age 59	If work 20+ Years, 3% annual COLA commencing age 59
Annual Benefit Cap:	$95,000	$95,000	$95,000 Except Supplement does not count toward $95,000 annual maximum, including COLA on that amount	$95,000
DROP:	Eligible at NRD, monthly benefit accumulates at fund's net assumed return for 60 months	Eligible at NRD, monthly benefit accumulates at fund's net assumed return for 60 months	Eligible at NRD, monthly benefit accumulates at fund's net assumed return for 60 months	Eligible at NRD, monthly benefit accumulates at fund's net assumed return for 60 months

9/20/2024

CITY OF PORT ORANGE POLICE PENSION FUND **EXHIBIT B**

Tier 1 Supplement, Tier 1 and 2 COLA at 20 Years
Tier 1 Supplement Does Not Count Toward 95,000 Annual Maximum

Present Value of Benefits

Valuation as of October 1,		After Ord. No. 2024-10 2023	September 2024 - Tier 1 Supp and Tier 1&2 COLA at 20, Tier 1 Supp Not Toward Max 2023
1.	**Active Members**		
a.	Retirement Benefits	$33,676,890	$35,807,670
b.	Deferred Benefits	1,427,828	1,423,907
c.	Survivor Benefits	418,959	388,105
d.	Disability Retirement	412,075	369,921
e.	Total	$35,935,752	$37,989,603
2.	**Inactive Members**		
a.	Retirement and DROP	$35,981,115	$35,981,115
b.	Terminated Vested	380,057	380,057
c.	Beneficiaries	1,228,949	1,228,949
d.	Disability Retirement	3,978,699	3,978,699
e.	Total	$41,568,820	$41,568,820
3.	**Present Value of Benefits (PVB)**	$77,504,572	$79,558,423
4.	**Change in PVB**		$2,053,851

CITY OF PORT ORANGE POLICE PENSION FUND **EXHIBIT C**

Tier 1 Supplement, Tier 1 and 2 COLA at 20 Years
Tier 1 Supplement Does Not Count Toward 95,000 Annual Maximum

Accrued Liability and Funded Percentage

		After Ord. No. 2024-10	September 2024 - Tier 1 Supp and Tier 1&2 COLA at 20, Tier 1 Supp Not Toward Max
Valuation as of October 1,		**2023**	**2023**
1.	**Active Members**		
	a. Retirement Benefits	$25,323,589	$27,933,159
	b. Deferred Benefits	307,958	355,946
	c. Survivor Benefits	51,387	47,109
	d. Disability Retirement	87,919	73,316
	e. Total	$25,770,853	$28,409,530
2.	**Inactive Members**		
	a. Retirement and DROP	$35,981,115	$35,981,115
	b. Terminated Vested	380,057	380,057
	c. Beneficiaries	1,228,949	1,228,949
	d. Disability Retirement	3,978,699	3,978,699
	e. Total	$41,568,820	$41,568,820
3.	**Accrued Liability (AL)**	$67,339,673	$69,978,350
4.	**Actuarial Value of Assets**	$58,040,818	$58,040,818
5.	**Unfunded Accrued Liability**	$9,298,855	$11,937,532
6.	**Funded Percentage**	86.19 %	82.94 %
7.	**Change in AL**		$2,638,677
8.	**Change in Funded Percentage**		(3.25)%

CITY OF PORT ORANGE POLICE PENSION FUND

EXHIBIT D

Tier 1 Supplement, Tier 1 and 2 COLA at 20 Years
Tier 1 Supplement Does Not Count Toward 95,000 Annual Maximum

Normal Cost

Valuation as of October 1,		After Ord. No. 2024-10 2023	September 2024 - Tier 1 Supp and Tier 1&2 COLA at 20, Tier 1 Supp Not Toward Max 2023
1.	**Preliminary Normal Cost**		
	a. Retirement Benefits	$1,092,547	$1,100,020
	b. Deferred Benefits	133,679	133,241
	c. Survivor Benefits	49,770	47,945
	d. Disability Retirement	42,781	40,723
	e. Total	$1,318,777	$1,321,929
2.	**Total Normal Cost**		
	a. Preliminary Normal Cost	$1,318,777	$1,321,929
	b. Estimated Administrative Expense	180,825	180,825
	c. Total Normal Cost	$1,499,602	$1,502,754
	d. Total Normal Cost as a % of Pay	31.63 %	32.83 %
3.	**Valuation Payroll**	$4,741,741	$4,577,559
4.	**Change in Total Normal Cost**		$3,152
5.	**Change in Total Normal Cost as a % of Pay**		1.20 %

CITY OF PORT ORANGE POLICE PENSION FUND **EXHIBIT E**

Tier 1 Supplement, Tier 1 and 2 COLA at 20 Years
Tier 1 Supplement Does Not Count Toward 95,000 Annual Maximum

Minimum Required Contribution

Valuation as of October 1, Required Contribution for FYE September 30,	After Ord. No. 2024-10 2023 2025	September 2024 - Tier 1 Supp and Tier 1&2 COLA at 20, Tier 1 Supp Not Toward Max 2023 2025
1. Normal Cost	$1,499,602	$1,502,754
2. Amortization of Unfunded Actuarial Liability	959,127	1,150,403
3. Minimum Required Contribution at Valuation Date [1. + 2.]	$2,458,729	$2,653,157
4. Minimum Required Contribution Projected to Beginning of Budget Year	$2,627,152	$2,834,898
5. Interest for Periodic Payments	109,972	117,088
6. Minimum Required Contribution Adjusted for Periodic Payments [4. + 5.]	$2,737,124	$2,951,986
7. Expected Employee Contributions	$376,350	$363,913
8. Expected State Contribution	583,717	583,717
9. Estimated City Contribution	1,777,057	2,004,356
10. Minimum Required Contribution for Funding Year	$2,737,124	$2,951,986
11. City Plus State Contribution	$2,360,774	$2,588,073
12. Expected Employee Contribution Rate	7.86%	7.87%
13. Expected State Contribution Rate	12.19%	12.63%
14. Estimated City Contribution Rate	37.10%	43.35%
15. Minimum Required Contribution Rate	57.15%	63.85%
16. City Plus State Contribution Rate	49.29%	55.98%
17. Payroll		
a. Valuation Payroll	$4,741,741	$4,577,559
b. Projected Valuation Payroll	$4,789,158	$4,623,335
c. Hired < January 31, 2011	1,356,540	1,190,717
d. Hired > January 31, 2011	3,432,618	3,432,618
18. Assumptions		
a. Net Assumed Investment Return	6.85%	6.85%
b. Contribution Projected to Next FY	6.85%	6.85%
c. Total Payroll Inflation	1.00%	1.00%
d. Payroll Inflation for Amortization of UAL	1.00%	1.00%
19. Increase in Estimated City Contribution		$227,299
20. Increase in Estimated City Contribution Rate		6.25 %

ORDINANCE NO. 2024-____

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 54, ARTICLE V, POLICE PENSION FUND, AMENDING SECTION 54-130, BENEFIT LEVEL, AMENDING SUPPLEMENTAL BENEFIT AND COST OF LIVING ADJUSTMENT ELIGIBLITY FOR CERTAIN MEMBERS; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange, Florida has entered into a collective bargaining agreement with the Coastal Florida Police Benevolent Association Lieutenants (PBALT) for the period October 1, 2024 through September 30, 2026; and

WHEREAS, the City of Port Orange, Florida has entered into a collective bargaining agreement with the Port Orange Police Association , I.U.P.A. Local 6051 (Police Officers and Sergeants) for the period October 1, 2023, through September 30, 2026; and

WHEREAS, the collective bargaining agreements for PBALT and IUPA contain changes to retirement benefits under the City of Port Orange Police Pension Fund; and

WHEREAS, in order to implement the changes to the Police Pension Fund contained in the collective bargaining agreements, an amendment to Chapter 54 of the City Code is necessary; and

WHEREAS, the City has obtained an actuarial impact statement concerning the retirement plan changes in accordance with Article X, Section 14 of the Florida Constitution and Section 112.63, Florida Statutes; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AS FOLLOWS:

<u>**SECTION 1:**</u> Section 54-130, Benefit level, of the Port Orange Police Pension Fund is hereby amended as follows:

Sec. 54-130. Benefit level.

(a) *Calculation of benefit amount.*

(1) For participants retiring on or after the effective date of the ordinance from which this article is derived, a participant's normal monthly benefit level shall be the product of the vesting credits earned multiplied by three percent of average final compensation, plus the applicable amount as follows:

a. Two hundred dollars per month if the participant retires with ten vesting credits, provided that participants retiring on or after October 1, 2002 must have 20 vesting credits to receive this benefit, except that any participant in the employment of the city on October 1, 2002 who had attained age 50 and had at least ten vesting credits on that date shall upon retirement be granted this benefit.

b. An additional $20.00 per month for each vesting credit earned by the participant in addition to ten vesting credits, up to a maximum additional amount of $400.00 per month, provided that participants retiring on or after October 1, 2002 must have twenty vesting credits to receive this benefit, except that any participant in the employment of the city on October 1, 2002 who had attained age 50 and had at least ten vesting credits on that date shall upon retirement be granted this benefit.

c. The maximum total benefit amount provided under subsections (a) and (b) of this subsection shall not exceed $600.00 per month.

d. Notwithstanding the provisions of subparagraphs a. and b. above, participants who are employed and not participating in the DROP on January 31, 2011, must attain 25 vesting credits to be eligible for the benefits provided in subparagraphs a. and b. above. <u>Notwithstanding the preceding sentence, participants who were employed and not participating in the DROP on January 31, 2011 and retire or enter the DROP after [effective date of this ordinance],</u>

<u>must attain 20 vesting credits to be eligible for the benefits provided in subparagraphs a. and b. above.</u>

e. Notwithstanding the provisions of subparagraphs a. and b. above, participants who are hired after January 31, 2011, and earn at least ten vesting credits shall, upon retirement, be eligible for an additional benefit equal to $100.00 per month; and an additional benefit of $10.00 per month for each vesting credit earned by the participant in excess of ten vesting credits, up to a maximum of $100.00; subject to a total maximum additional benefit amount of $200.00 per month.

(2) For participants retiring before October 1, 1993, the monthly benefit level shall be the product of the vesting credits earned multiplied by two percent of average final compensation, plus the applicable amounts provided in subparagraphs (a), (b) and (c) of paragraph (1), above, plus a cost-of-living adjustment which shall commence on January 1, 1994. Effective January 1, 1994, the pension benefit payable to any participant who retired prior to October 1, 1993, shall be increased by the percentage by which the Consumer Price Index (urban wage earner as calculated by the United States Department of Labor) increased between July of the immediately preceding year as compared to July of the prior year. These cost-of-living adjustments shall be made annually until the participant's benefit level reaches the amount provided in subsection (a) (1), above, at which time such cost-of-living adjustments shall cease, except as provided in paragraph (4) below. In no event shall the pension benefit payable to participants who retired before October 1, 1993, exceed the benefit level that is the product of the vesting credits earned by such participants multiplied by three percent of average final compensation, plus the applicable cost of living adjustment provided in paragraph (4), below, plus the applicable amounts provided in subparagraphs (a), (b) and (c) of paragraph (1), above.

(3) The actual benefit amount is determined by making the adjustment, if any, for early retirement and for the form of benefit which the participant selects in accordance with this pension plan.

(4) Notwithstanding paragraph (2) of this subsection, effective October 1, 2001, all then current and future retirees who retire before October 1, 2002, including disability retirees, shall be granted a cost-of-living adjustment annually, equal to one percent of their then-current annuity amount, commencing on the January 1 following the first anniversary of the retiree's annuity commencement. For a DROP

retiree, the increase shall be granted commencing on the January 1 following the first anniversary of the annuity commencement that begins at the end of the DROP period. Effective October 1, 2002, all current and future participants retiring on or before January 31, 2011, who have attained 20 vesting credits shall be annually granted a cost-of-living (COLA) increase of three percent of their then-current annuity amount, except that any participant in the employment of the city on October 1, 2002 who had attained age 50 and had at least ten vesting credits on that date shall upon retirement be granted such annual three percent COLA commencing:

a. Upon the 61st month following commencement of DROP participation or receipt of pension benefits for participants who retired or entered the DROP upon or after attaining age 45 and earning 25 vesting credits or upon after attaining age 50 and earning 20 vesting credits;

b. Upon the later of the 61st month following commencement of DROP participation or receipt of pension benefits or the first day of the month after or upon which the participant attains age 59 for participants who retired upon or after attaining age 48 and earning 20 vesting credits, except employees hired on or after January 1, 2003, shall not be eligible for these increases;

c. On the first day of the month after or upon which the participant attains age 59 for participants who separated from city employment after earning 20 vesting credits but before being eligible to receive pension benefits; except employees hired on or after January 1, 2003, shall not be eligible for these increases;

d. Upon the 61st month following the commencement of disability benefits. The one percent annual cost-of-living adjustment shall not be paid to participants who retire on or after October 1, 2002, or to any participant eligible to receive a three-percent cost-of-living increase.

(5) Notwithstanding the provisions of paragraph (4) above, participants who are employed and not participating in the DROP on January 31, 2011, must attain 25 vesting credits to be eligible for a cost-of-living (COLA) increase. The annual COLA for such participants shall be equal to three percent of their then current annuity amount, and shall commence on the first day of the month after the participant attains age 59.

(6) Notwithstanding the provisions of paragraph (4) above, participants hired after January 31, 2011<u>, who separated from service before</u>

[effective date of this ordinance], shall not be eligible for a cost-of-living adjustment.

(7) Notwithstanding anything herein to the contrary, participants who are employed and not participating in the DROP on [effective date of this ordinance] and participants hired thereafter, who separate from city employment after earning 20 vesting credits, shall, upon retirement, be eligible for a cost-of-living (COLA) equal to three percent of their then current annuity amount, which shall commence on the first day of the month after the participant attains age 59.

(8) For participants who are employed and not participating in the DROP on January 31, 2011, and for participants hired after that date, the maximum total benefit amount provided under section 54-130 shall not exceed $95,000.00, inclusive of any cost of living adjustments to which the member may be entitled. Effective [effective date of this ordinance], for participants employed and not participating in the DROP on January 31, 2011, who retire or enter the DROP after [effective date of this ordinance], additional benefit amounts provided for under sub-paragraphs (1)b. through d. of this subsection 54-130 (a) shall not be included in a participant's benefit for purposes of determining compliance with the maximum total benefit provided for herein.

SECTION 2. Specific authority is hereby granted to codify and incorporate this ordinance in the existing Code of Ordinances of the City of Port Orange.

SECTION 3. All ordinances or parts of ordinances in conflict with 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, 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 5. 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 _____________, 2024.

Passed and adopted on second and final reading on the ______ day of ___________________, 2024.

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. 2024-21 - Amending Ch. 54, Sec. 54-130 Calculation of benefit amount

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): This implements changes to the Police Pension Fund contained in the collective bargaining agreement for IUPA and PBALT, and amendments to Chapter 54 of the City Code is necessary to implement the agreed upon changes.

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: There are no direct compliance costs anticipated. (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible: None. (c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs: None.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: No impact on businesses anticipated.

4. Additional information the governing body deems useful[2] (if any): This ordinance formally amends the Port Orange Police Pension Fund ("Pension Fund") and is necessary to implement agreed upon changes to the pension plan pursuant to collective bargaining agreements with IUPA and PBALT. The changes allow the City to continue to recruit and retain quality law enforcement personnel to bolster public safety.

[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 11/6/2024

SUBJECT: (I17) Second Reading - Ordinance No. 2024-22 - Amendment to Chapter 54, Article IV, Fire & Rescue Pension Fund of the Code of Ordinances

DEPARTMENT: Finance

GOAL: 1 - Public Safety
6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve first reading of Ordinance No. 2024-22 amending the Fire and Rescue Pension Fund.

SUMMARY: On September 17, 2024, the City Council approved the Memorandum of Understanding (MOU) with the International Association of Firefighters (IAFF) Collective Bargaining Agreement (CBA) which included amendments to the retirement plan articles. The Plan Actuary, Foster & Foster, completed an updated actuarial impact statement. This ordinance is required to implement the pension changes negotiated by the fire union.

The changes are as follows:

1. Section 54-77 - Definitions. Amends the definition of salary to include overtime payments of up to 300 hours per year.
2. Section 54-82 - Retirement benefit amounts and eligibility. Amends language that clarifies the normal retirement age shall be 52 years of age and ten years of credited service or 25 years of credited service, regardless of age.

Preliminary estimates for fiscal year 2024–2025 show that this amendment will cost the city $298,368 in additional required contributions to the fire pension fund as part of the October 1, 2023, valuation for contributions through September 30, 2025. Funds to cover the additional contribution are included in the approved FY2024-2025 adopted budget.

PRESENTER: John McKinney

ATTACHMENTS:

1.	Port Orange Fire Plan Ord implementing Art 12 rev10.11.24MJ	Port Orange Fire Plan Ord implementing Art 12 rev10.11.24MJ.pdf

2.	Port_Orange_Fire_October_2024_Actuarial_Impact_Statement	Port_Orange_Fire_October_2024_Actuarial_Impact_Statement.pdf
3.	BIE - Ord. No. 2024-22 Fire Pension Changes	BIE - Ord. No. 2024-22 Fire Pension Changes.pdf

Amanda Bonin Created/Initiated - 10/25/2024

ORDINANCE NO. 2024-22

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 54, ARTICLE IV, FIRE AND RESCUE PENSION FUND, AMENDING SECTION 54-77, DEFINITIONS, AMENDING THE DEFINITION OF SALARY; AMENDING SECTION 54-82, RETIREMENT BENEFIT AMOUNTS AND ELIGIBILITY, AMENDING THE NORMAL RETIREMENT DATE FOR CERTAIN MEMBERS; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange, Florida has entered into a collective bargaining agreement with the International Association of Firefighters (IAFF) for the period October 1, 2023 through September 30, 2025; and

WHEREAS, the collective bargaining agreement for IAFF contain changes to retirement benefits under the City of Port Orange Fire and Rescue Pension Fund; and

WHEREAS, in order to implement the changes to the Fire and Rescue Pension Fund contained in the collective bargaining agreements, an amendment to Chapter 54 of the City Code is necessary; and

WHEREAS, the City has obtained an actuarial impact statement concerning the retirement plan changes in accordance with Article X, Section 14 of the Florida Constitution and Section 112.63, Florida Statutes; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AS FOLLOWS:

<u>SECTION 1:</u> Section 54-77, Definitions, of the Port Orange Fire and Rescue Pension Fund is hereby amended as follows:

Sec. 54-77. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings indicated to them in this section, except where the context clearly indicates a different meaning:

* * *

Salary means the member's fixed compensation (base pay) for services rendered to the city as a firefighter, plus all tax-deferred, tax-sheltered and tax-exempt items of income derived from elective employee payroll deductions or salary reductions. Base pay excludes overtime, education pay, specialty and incentive pay, lump sum payments of annual leave, sick leave, and compensation leave, and all other nonregular compensation. Notwithstanding the preceding sentence, effective July 1, 2021, salary shall include specialty and incentive pay. Notwithstanding anything herein to the contrary, for service earned on or after [effective date of this ordinance] salary shall include overtime payments up to 300 hours per year. Compensation in excess of the limitations set forth in section 401(a)(17) of the Code, as~~. As~~ of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year may not exceed the dollar limit imposed under IRC Section 401(a)(17) or use more than this amount in applying certain nondiscrimination rules. Compensation means compensation during the fiscal year. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. The limitation on compensation for an eligible employee shall not be less than the amount which was allowed to be taken into account in effect on July 1, 1993. Eligible employee means an individual who was a member before the first plan year beginning after December 31, 1995.

* * *

SECTION 2. Section 54-82, Retirement benefit amounts and eligibility, of the Port Orange Fire and Rescue Pension Fund is hereby amended as follows:

Sec. 54-82. Retirement benefit amounts and eligibility

(a) *Normal retirement date*. A member's normal retirement date shall be the first day of the month coincident with or next following the earlier of the attainment of age 55 and the completion of ten years of credited service or upon the completion of 25 years of credited service and attainment of age 52. A member may retire on his normal retirement date or on the first day of any month thereafter, and each member shall become 100 percent vested in his accrued benefit on the member's normal retirement date. Normal retirement under the system is retirement from employment with the city on or after the normal retirement date. Notwithstanding any other provision of this subsection (a), a member who is employed and not participating in the DROP on September 25, 2012, may retire upon attainment of age 50 and the completion of ten years of credited service or upon the completion of 20 years of credited service regardless of age, and upon such retirement shall be eligible to receive the benefit accrued as of September 25, 2012; and such member shall be eligible to receive the benefit based on credited service after the effective date of this section upon attainment of age 55 and the completion of ten years of credited service or upon the completion of 25 years of credited service and attainment of age 52. Notwithstanding any other provision of this subsection (a), a member with ten or more years of credited service on January 1, 2013, may retire upon attainment of age 48 and completion of 25 years of credited service, and upon such retirement shall be eligible for the normal retirement benefit provided in subsection (b) below. <u>Notwithstanding any other provision of this subsection (a), members who are employed and not participating in the DROP on [effective date of this ordinance] and members hired thereafter, may retire upon attainment of age 52 and the completion of ten years of credited service or upon the completion of 25 years of credited service regardless of age, and upon such retirement shall be eligible for the normal retirement benefit provided in subsection (b) below.</u>

*   *   *

<u>SECTION 3</u>. Specific authority is hereby granted to codify and incorporate this ordinance in the existing Code of Ordinances of the City of Port Orange.

<u>SECTION 4.</u> All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

<u>SECTION 5.</u> 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. 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 _____________, 2024.

Passed and adopted on second and final reading on the ______ day of ___________________, 2024.

Reviewed and Approved: ____________________________________
Matthew J. Jones, City Attorney

October 2, 2024

Board of Trustees
City of Port Orange
Firefighters' Pension Board

Re: City of Port Orange Fire and Rescue Pension Fund

Dear Board:

Enclosed is the following material, which has been prepared in support of the proposed changes to the Fund:

1. Three (3) copies of the required Actuarial Impact Statement, which outlines the costs associated with implementing the changes.

2. Draft of transmittal letters to the Bureau of Local Retirement Systems and the Bureau of Police Officers' and Firefighters' Retirement Trust Funds.

It will be necessary for the Chairman to sign each copy of the Actuarial Impact Statement as the Plan Administrator and forward the Impact Statement, along with a copy of the proposed Ordinance, to the two Bureaus prior to final reading.

If you have any questions concerning the enclosed material, please let us know.

Sincerely,

Doug Lozen

Douglas H. Lozen, EA, MAAA
DHL/lke

Enclosures

Mr. Steve Bardin
Police Officers' and Firefighters' Retirement Trust Funds
Department of Management Services, Division of Retirement
3189 S. Blair Stone Rd.
Tallahassee, FL 32301

Re: Actuarial Impact Statement

Dear Mr. Bardin:

The City of Port Orange is considering the implementation of amended retirement benefits for its Firefighters. The changes are described in the enclosed material.

Pursuant to the provisions of Chapter 175, we are enclosing the required Actuarial Impact Statement along with a copy of the proposed Ordinance for your review.

If you have any questions or if additional information is needed, please contact us.

Sincerely,

Mr. Keith Brinkman
Bureau of Local Retirement Systems
Division of Retirement
3189 S. Blair Stone Rd.
Tallahassee, FL 32301

Re: Actuarial Impact Statement

Dear Mr. Brinkman:

The City of Port Orange is considering the implementation of amended retirement benefits for its Firefighters. The changes are described in the enclosed material.

Pursuant to Section 22d-1.04 of the Agency Rules, we are enclosing the required Actuarial Impact Statement (AIS) and a copy of the proposed Ordinance for your review.

If you have any questions or if additional information is needed, please contact us.

Sincerely,

CITY OF PORT ORANGE
FIRE AND RESCUE PENSION FUND

ACTUARIAL IMPACT STATEMENT

October 2, 2024
(Page 1)

Attached hereto is a comparison of the impact on the Minimum Required Contribution (per Chapter 112, Florida Statutes) and the Required City Contribution, resulting from the implementation of the following changes:

1. Prospective inclusion of up to 300 hours of overtime compensation annually for Pensionable Earnings.

2. The Normal Retirement Date applicable to benefits accrued on and after September 26, 2012 is the earlier of a) attainment of age 52 with the completion of 10 years of Credited Service, or b) completion of 25 years of Credited Service, regardless of age.

   Current plan: Earlier of 1) Age 55 and 10 years of Credited Service, or 2) Age 52 and 25 years of Credited Service (age 48 with 25 years of Credited Service with 10 years of Credited Service as of January 1, 2013).

The cost impact, determined as of October 1, 2023, applicable to the fiscal year ending September 30, 2025, is as follows [2]:

	Proposed	Current
Minimum Required Contribution		
% of Projected Annual Payroll	97.1%	97.6%
Member Contributions (Est.)		
% of Projected Annual Payroll	7.8%	7.8%
City And State Required Contribution		
% of Projected Annual Payroll	89.3%	89.8%
State Contribution (Est.) [1]	$581,845	$581,845
% of Projected Annual Payroll	14.4%	15.8%
City Required Contribution		
% of Projected Annual Payroll	74.9%	74.0%

[1] Estimated for calendar 2024. As per a Mutual Consent Agreement between the Membership and the City, all State Monies received each year will be available to offset the City's required contribution.

CITY OF PORT ORANGE
FIRE AND RESCUE PENSION FUND

ACTUARIAL IMPACT STATEMENT

October 2, 2024
(Page 2)

Unless otherwise noted, all data, assumptions, methods and plan provisions are the same as in the October 1, 2023 actuarial valuation report. It should be noted that changes to retirement benefits could potentially affect participants' retirement or termination behavior. We will monitor and advise of any recommended changes with future experience studies. Estimated Pensionable Earnings for the inclusion of overtime compensation was provided by the City of Port Orange.

Future actuarial measurements may differ significantly from the current measurements presented in this report for a variety of reasons including: changes in applicable laws, changes in plan provisions, changes in assumptions, or plan experience differing from expectations. Due to the limited scope of the analysis, we did not perform an analysis of the potential range of such future measurements.

Please note that contents of this analysis and the October 1, 2023 actuarial valuation report are considered an integral part of the actuarial opinions. In reviewing the results presented in this study, it should be noted that there are risks that may not be inherently apparent to the reader that should be carefully considered. For key risks, please see the Discussion of Risk section of the October 1, 2023 actuarial valuation report.

In performing the analysis, we used third-party software to model (calculate) the underlying liabilities and costs. These results are reviewed in the aggregate and for individual sample lives. The output from the software is either used directly or input into internally developed models to generate the costs. All internally developed models are reviewed as part of the process. As a result of this review, we believe that the models have produced reasonable results. We do not believe there are any material inconsistencies among assumptions or unreasonable output produced due to the aggregation of assumptions.

The changes presented herein are in compliance with Part VII, Chapter 112, Florida Statutes and Section 14, Article X of the State Constitution. The undersigned is familiar with the immediate and long-term aspects of pension valuations and meets the Qualification Standards of the American Academy of Actuaries necessary to render the opinions contained herein.

Douglas H. Lozen, EA, MAAA
Enrolled Actuary #23-7778

STATEMENT OF PLAN ADMINISTRATOR

The prepared information presented herein reflects the estimated impact of the proposed Ordinance.

Chairman, Board of Trustees

COMPARATIVE SUMMARY OF PRINCIPAL VALUATION RESULTS

	Proposed 10/1/2023	Current 10/1/2023
A. Participant Data		
Actives	60	60
Service Retirees	51	51
DROP Retirees	4	4
Beneficiaries	4	4
Disability Retirees	6	6
Terminated Vested	12	12
Total	137	137
Projected Annual Payroll	4,030,313	3,676,131
Annual Rate of Payments to:		
Service Retirees	2,873,875	2,873,875
DROP Retirees	185,808	185,808
Beneficiaries	160,940	160,940
Disability Retirees	150,097	150,097
Terminated Vested	57,551	57,551
B. Assets		
Actuarial Value (AVA) [1]	42,328,279	42,328,279
Market Value (MVA) [1]	38,770,466	38,770,466
C. Liabilities		
Present Value of Benefits		
Actives		
Retirement Benefits	21,114,132	18,421,196
Disability Benefits	430,974	498,939
Death Benefits	58,686	55,773
Vested Benefits	739,243	589,665
Refund of Contributions	115,750	115,750
Service Retirees	38,407,253	38,407,253
DROP Retirees [1]	3,460,939	3,460,939
Beneficiaries	1,671,122	1,671,122
Disability Retirees	1,814,750	1,814,750
Terminated Vested	478,990	478,990
Share Plan Balances [1]	0	0
Total	68,291,839	65,514,377

C. Liabilities - (Continued)	Proposed 10/1/2023	Current 10/1/2023
Present Value of Future Salaries	33,589,045	32,836,975
Present Value of Future Member Contributions	2,606,510	2,548,149
Normal Cost (Retirement)	698,913	558,969
Normal Cost (Disability)	38,594	40,710
Normal Cost (Death)	3,670	3,402
Normal Cost (Vesting)	42,612	32,309
Normal Cost (Refunds)	19,168	19,168
Total Normal Cost	802,957	654,558
Present Value of Future Normal Costs	6,494,348	5,335,492
Accrued Liability (Retirement)	15,490,674	13,932,461
Accrued Liability (Disability)	129,835	143,480
Accrued Liability (Death)	27,508	25,452
Accrued Liability (Vesting)	298,731	226,749
Accrued Liability (Refunds)	17,689	17,689
Accrued Liability (Inactives) [1]	45,833,054	45,833,054
Share Plan Balances [1]	0	0
Total Actuarial Accrued Liability (EAN AL)	61,797,491	60,178,885
Unfunded Actuarial Accrued Liability (UAAL)	19,469,212	17,850,606
Funded Ratio (AVA / EAN AL)	68.5%	70.3%

D. Actuarial Present Value of Accrued Benefits	Proposed 10/1/2023	Current 10/1/2023
Vested Accrued Benefits		
Inactives + Share Plan Balances [1]	45,833,054	45,833,054
Actives	10,298,622	9,406,037
Member Contributions	1,803,633	1,803,633
Total	57,935,309	57,042,724
Non-vested Accrued Benefits	665,825	877,586
Total Present Value Accrued Benefits (PVAB)	58,601,134	57,920,310
Funded Ratio (MVA / PVAB)	66.2%	66.9%
Increase (Decrease) in Present Value of Accrued Benefits Attributable to:		
Plan Amendments	680,824	
Benefit Changes	0	
Plan Experience	0	
Benefits Paid	0	
Interest	0	
Other	0	
Total	680,824	

	Proposed	Current
Valuation Date	10/1/2023	10/1/2023
Applicable to Fiscal Year Ending	9/30/2025	9/30/2025
E. Pension Cost		
Normal Cost (with interest)		
% of Projected Annual Payroll [2]	20.6	18.5
Administrative Expenses (with interest)		
% of Projected Annual Payroll [2]	2.3	2.5
Payment Required to Amortize Unfunded Actuarial Accrued Liability over 15 years (as of 10/1/2023, with interest)		
% of Projected Annual Payroll [2]	74.2	76.6
Minimum Required Contribution		
% of Projected Annual Payroll [2]	97.1	97.6
Expected Member Contributions		
% of Projected Annual Payroll [2]	7.8	7.8
Expected City and State Contribution		
% of Projected Annual Payroll [2]	89.3	89.8

[1] The asset values and liabilities include accumulated DROP and Share Plan Balances.

[2] Contributions developed as of 10/1/2023 are expressed as a percentage of Projected Annual Payroll at 10/1/2023 of $4,030,313 for the Proposed changes and of $3,676,131 under the current definition of Pensionable Earnings.

ACTUARIAL ASSUMPTIONS AND METHODS

Mortality Rate

Healthy Active Lives:

Female: PubS.H-2010 (Below Median) for Employees, set forward one year.
Male: PubS.H-2010 (Below Median) for Employees, set forward one year.

Healthy Retiree Lives:

Female: PubS.H-2010 for Healthy Retirees, set forward one year.
Male: PubS.H-2010 for Healthy Retirees, set forward one year.

Beneficiary Lives:

Female: PubG.H-2010 for Healthy Retirees.
Male: PubG.H-2010 for Healthy Retirees, set back one year.

Disabled Lives:

80% PubG.H-2010 for Disabled Retirees / 20% PubS.H-2010 for Disabled Retirees.

All rates for healthy lives are projected generationally with Mortality Improvement Scale MP-2018. We feel this assumption sufficiently accommodates future mortality improvements.

The previously described mortality assumption rates were mandated by Chapter 2015-157, Laws of Florida. This law mandates the use of the assumptions used in either of the two most recent valuations of the Florida Retirement System (FRS). The above rates are those outlined in Milliman's July 1, 2021 FRS valuation report for special risk employees, with appropriate adjustments made based on plan demographics.

Interest Rate

7.25% per year compounded annually, net of investment related expenses. This is supported by the target asset allocation of the trust and the expected long-term return by asset class.

Salary Increases

Salary Scale	
Service	Rate
0-4	5.50%
5-9	4.50%
10+	4.00%

The above rates were approved by the Board as the result of the November, 2019 experience study.

Payroll Growth

None.

Administrative Expenses

$89,195 annually, based on the average of actual expenses incurred in the prior two fiscal years.

Cost-Of-Living Adjustments (COLA)

For purposes of COLA eligibility, plan is assumed to reach an 80% Funded Ratio on October 1, 2030.

Amortization Method

New UAAL amortization bases are amortized over 15 years.

The amortization payment is subject to a minimum based on a 30-year amortization of the UAAL, if the UAAL is positive, in order to comply with Actuarial Standard of Practice No. 4.

Bases established prior to the valuation date are adjusted proportionally to match the Expected Unfunded Actuarial Accrued Liability as of the valuation date, in order to align prior year bases with the portion of the current year UAAL associated with prior year sources.

Funding Method

Entry Age Normal Actuarial Cost Method. The following loads are applied for determining the minimum required contribution:

Interest - A half year, based on current 7.25% assumption.

Salary - None.

Termination Rates

% Terminating During the Year	
Service	Rate
0-4	7.5%
5-9	3.0%
10+	1.0%

The above rates were approved by the Board as the result of the November, 2019 experience study.

Disability Rates

Sample rates shown in the below table. It is assumed that 90% of active disablements are duty-related.

% Becoming Disabled During the Year	
Age	Rate
20	0.07%
25	0.09%
30	0.11%
35	0.14%
40	0.19%
45	0.30%
50	0.51%
55	0.96%
60	1.66%
65	2.39%

The above rates were approved by the Board as the result of the November, 2019 experience study.

Normal Retirement

Members hired prior to December 5, 2012:

% Retiring During the Year (10-24 Years of Service)		% Retiring During the Year (>= 25 Years of Service)	
Eligibility	Rate	Eligibililty	Rate
First Eligible	50.0%	First	100.0%
Years 1-4	30.0%		
Years 5+	100.0%		

Members hired after December 4, 2012 are assumed to retire immediately upon first eligibility.

The above rates are the result of the November, 2019 experience study.

Early Retirement

None, based on results of the November, 2019 experience study.

Asset Valuation Method	Each year, the prior Actuarial Value of Assets is brought forward utilizing the historical geometric 4-year average Market Value return. It is possible that over time this technique will produce an insignificant bias above or below Market Value.
Low-Default-Risk Obligation Measure	Based on the Entry Age Normal Actuarial Cost Method and an interest rate of 4.87% per year compounded annually, net of investment related expenses. This rate is consistent with the Yield to Maturity of the S&P Municipal Bond 20-Year High Grade Rate Index as of September 30, 2023. All other assumptions for the Low-Default-Risk Obligation Measure are consistent with the assumptions shown in this section unless otherwise noted.

SUMMARY OF CURRENT PLAN
(Through Ordinance No. 2023-07)

CREDITED SERVICE	Years and fractional parts of years of service with the City as a Firefighter (including as a "Reserve"). Service as a volunteer firefighter shall be credited at one month of credited service for each complete year of volunteer service.
SALARY	Fixed monthly compensation (base pay) for services rendered to the City as a Firefighter, plus all tax-deferred, tax sheltered and tax-exempt items of income. Base pay excludes overtime, education pay, lump sum payments of annual leave, sick leave, and compensation leave, and all other nonregular compensation. Effective July 1, 2021, Salary includes specialty and incentive pay.

AVERAGE FINAL COMPENSATION

Average Final Compensation is the greatest of the following, applied to all pieces of benefit, per Board direction at the May 2020 Board meeting:

a) Average Salary during the three (3) best years of the last ten (10) ("Best 3 of 10") as of September 25, 2012,

b) Best 3 of 10 as of December 31, 2012, and

c) Best 5 of 10 as of date of termination.

Effective the October 1st following the first valuation report that follows attainment of an 80% Actuarial Funded Ratio, Average Final Compensation will change to Average Salary during the three (3) best years of the last five (5) ("Best 3 of 5").

NORMAL RETIREMENT

Eligibility

Benefit Accrued Prior to 9/25/2012	Earlier of: 1) Age 50 and 10 years of Credited Service, or 2) the completion of 20 years of Credited Service, regardless of age.
Benefit Accrued On/After 9/25/2012	Earlier of 1) Age 55 and 10 years of Credited Service, or 2) Age 52 and 25 years of Credited Service. With 10 years of Credited Service as of January 1, 2013, eligibility is also attained at Age 48 and 25 years of Credited Service.

Benefit Amount	3.00% of Average Final Compensation for each year of Credited Service. The maximum benefit (including any supplement) is the lesser of 90% of Average Final Compensation and $95,000. In no event shall the benefit be less than 2.00% of Average Final Compensation for each year of Credited Service.
Form of Benefit	Ten Year Certain and Life Annuity (options available).

EARLY RETIREMENT

Eligibility	Age 50 and 10 years of Credited Service. Members who attained 40 and 10 as of September 25, 2012 are also eligible.
Benefit Amount	Benefit determined as for Normal Retirement actuarially reduced to reflect early payment.
Form of Benefit	Ten Year Certain and Life Annuity (options available).

SUPPLEMENTAL BENEFIT	Members hired before December 4, 2012 are eligible for a supplemental benefit upon attainment of 20 years of Credited Service and normal or early retirement eligibility. The monthly supplement is calculated in two pieces: 1) $20 per year of Credited Service before January 1, 2013 and 2) $10, $15, or $20 per year of Credited Service on and after January 1, 2013. The post-2012 supplemental benefit rate depends on total Credited Service at retirement. The first piece cannot exceed $600 and the second piece cannot increase the total supplement above $500.

COST-OF-LIVING ADJUSTMENT	Effective October 1, 2003, all current and future retirees receiving benefits, including disability retirees and terminated vested persons and their beneficiaries or joint annuitants, will receive an annual increase in benefits (excluding the Supplemental Benefit) as follows:
Benefits accrued prior to 1/1/2013:	a) For retirees who retired before October 1, 2003 and completed at least 19 years of Credited Service, the annual increase will be 3.00% commencing upon the 61st month following retirement. b) For retirees who retire on or after October 1, 2003 and complete at least 20 years of Credited Service, the annual increase will be 3.00% commencing upon the 61st month following retirement. c) For all other current and future retirees not described in (a) or (b) above, the annual increase shall be 1.00% and shall begin on the January 1st following one full year of retirement.
Benefits accrued on or after 1/1/2013:	For retirees who completed at least 25 years of Credited Service (or 20 years of Credited Service if first eligible for Normal Retirement at age 55 and 10 years of service), the annual increase shall be the lesser of 3.00% or the amount granted for Social Security benefits. The COLA would only be given in years that the Plan met or exceeded the actuarial assumptions, and also only when the GASB 25 Funded Ratio is above 80.00%. The COLA begins the later of 8 years after retirement and age 59.5.
Members hired after 12/4/2012	None.

DISABILITY	
Eligibility	a) 10 years of contributing service for non-service related; coverage from date of hire for service-incurred. b) Total and permanent disability as determined by the Board.
Benefit Amount	
Non-Service Connected	Benefit computed as for Normal Retirement.
Service Connected	Benefit computed as for Normal Retirement, but not less than 51% of Average Final Compensation.
VESTING (TERMINATION)	Less than 10 years - Refund of Accumulated Member Contributions. 10 or more years - Accrued benefit payable at the otherwise Normal Retirement Date, or Refund of Member Contributions.
DEATH	
Pre-Retirement	Vested or eligible for retirement: Beneficiary receives accrued pension payable for 10 years at otherwise Early or Normal Retirement Date (or actuarially reduced benefit payable for 10 years at the option of the Beneficiary). Non-vested: Refund of Accumulated Member Contributions.
Post-Retirement	According to optional form of payment selected at retirement.
CONTRIBUTIONS	
Employee	7.50% of Salary. 8.00% of Salary for Members hired after 12/4/2012.
Premium Tax	1.85% tax on applicable insurance policies.
City	Remaining amount necessary for payment of Normal (current year's) Cost and amortization of the accrued past service as provided by Chapter 112, Part VII, Florida Statutes.

BOARD OF TRUSTEES	a) Two City Council appointees, b) Two Members of the Plan elected by a majority of the other covered Firefighters, and c) A fifth Member elected by the other 4 and appointed by the City Council.
DEFERRED RETIREMENT OPTION PLAN	
Eligibility	Satisfaction of Normal Retirement requirements.
Participation	Not more than 60 months.
Rate of Return	Actual net rate of investment return.
Form of Distribution	Cash lump sum (options available).
SHARE PLAN	Pursuant to Chapter 2015-39, Laws of Florida, a supplemental benefit component for special benefits exists but is currently not funded as the City and Membership mutually consented to allow the City use all future State Monies.

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. 2024-22 - Amending Ch. 54, Sec. 54-77 Definitions and Section 54-82 Retirement benefit amounts and eligibility.

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):

This implements changes to the Fire Pension Fund contained in the collective bargaining agreement for IAFF, and amendments to Chapter 54 of the City Code is necessary to implement the agreed upon changes.

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:

There are no direct compliance costs anticipated.

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible:

None.

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

None.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

No impact on businesses anticipated.

4. Additional information the governing body deems useful[2] (if any):

This ordinance formally amends the Port Orange Fire Pension Fund ("Pension Fund") and is necessary to implement agreed upon changes to the pension plan pursuant to collective bargaining agreements with IAFF. The changes allow the City to continue to recruit and retain quality firefighter personnel to bolster public safety.

[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 11/6/2024

SUBJECT: (I18) First Reading - Ordinance No. 2024-24 - Amending Information Technology Policies for City Boards and Commissions

DEPARTMENT: Information Technology

GOAL: 2 - Infrastructure

RECOMMENDED MOTION: Move to approve Ordinance No. 2024-24.

SUMMARY: On December 5, 2023, City Council formerly adopted the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF) to safeguard its data, information technology, and information technology resources, ensuring availability, confidentiality, and integrity. The City has recently adopted Information Technology and Cybersecurity Policies that adhere to NIST CSF best practices. NIST CSF helps the City to better understand, manage and reduce its cybersecurity risk through tried and tested industry best practices. The core functions of NIST CSF is to concurrently and continuously form an operational culture that addresses the dynamic cybersecurity risk, rather than procedural or reactive measures alone.

The proposed ordinance amends the Code of Ordinances Chapter 2, Article III – Boards and Commissions, Division 1, Electronic Information Systems to implement terminology that is consistent with recently adopted Information Technology and Cybersecurity Policies. The amendments include the change of terminology from "Electronic Information Systems" to "Information Technology", additional prohibited uses of Information Technology, security and licensing issues and public records management.

PRESENTER: Jim Faulkner

ATTACHMENTS:

1.	Ordinance No. 2024-24 - IT Use and Security for Board and Commission Members	Ordinance No. 2024-24 - IT Use and Security for Board and Commission Members MJrev10.23.24.pdf
2.	Business Impact Estimate Form - Ord. 2024-24	Business Impact Estimate Form - Ord. 2024-24.pdf

Jim Faulkner Created/Initiated - 9/17/2024

Jim Faulkner	Approved - 9/17/2024
John McKinney	Approved - 9/19/2024
Matthew Jones	Approved - 10/23/2024
Wayne Clark	Approved - 10/25/2024
Tracee Cody	Final Approval - 10/25/2024

ORDINANCE 2024-24

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, ARTICLE III, BOARDS AND COMMISSIONS, DIVISION 1, ELECTRONIC INFORMATION SYSTEMS; AMENDING TERMINOLOGY TO BE CONSISTENT WITH RECENTLY ADOPTED INFORMATION TECHNOLOGY AND CYBERSECURITY POLICIES, EXPANDING APPLICABILITY, ADDING ADDITIONAL PROHIBITED USES, ADDRESSING SECURITY AND LICENSING ISSUES, AMENDING THE PUBLIC RECORDS REQUIREMENTS, ESTABLISHING A NEW SECTION 2-58 ADDING USE REQUIREMENTS, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, PROVIDING FOR SCRIVENER'S ERRORS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council is dedicated to having a secure network; and

WHEREAS, City Council has determined that it is in the best interest of the public health, safety and welfare that this ordinance be adopted; and

WHEREAS, for purposes of this ordinance words with underlined (<u>underlined</u>) 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 ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

<u>SECTION 1.</u> The City Council of the City of Port Orange, Florida, hereby amends ARTICLE III. - BOARDS AND COMMISSIONS, DIVISION 1.- ELECTRONIC INFORMATION SYSTEM, Sections 2-51 through 2-65 of the City of Port Orange Code of Ordinances, to read as follows:

DIVISION 1. ~~ELECTRONIC~~ INFORMATION <u>TECHNOLOGY USE</u> ~~SYSTEM~~

Sec. 2-51. Purpose.

The purpose of this division shall be to establish standards for the use and accessibility of the ~~electronic~~ information technology~~systems~~ provided by the city to agency, board, commissioners, and other members or volunteers appointed by the city council or management (collectively referred to herein as "members"). ~~Electronic Information Systems ("EIS")~~ Information Technology ("IT") shall mean any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the City. IT includes, without limitation, all computers, laptops, phones, cellular devices, software, internet access, and other electronic devices and systems provided by the City. ~~shall include all computers, phones, software, internet access, and other electronic devices and systems provided by the city. In order to ensure that the city and its members benefit from the use of these systems, the following standards are hereby established.~~ This division is also intended to provide standards and direction for the preservation of emails and text messages under the public records law.

Sec. 2-52. In general.

(a) The use of IT~~EIS~~ for city business has become critical to the daily operations of the city and its members, as well as the general public who wish to obtain information about local government issues, projects, and services. Governmental organizations are increasingly using IT~~EIS~~ to increase efficiency and productivity, improve the quality of services, and provide open access to public records. It is the general policy of the city that IT~~EIS~~ be used in a responsible, efficient, ethical, and legal manner to support the programs of the city. The city reserves the right to monitor and log all activity on any of its IT~~EIS~~ including email, text messaging and internet use, with and without notice. Members and other users shall have no expectation of privacy or confidentiality when using city IT~~EIS~~.

(b) ~~Although the city maintains firewalls and other security measures to block~~Users of IT may be exposed to content that is offensive, indecent or objectionable. ~~content, members and other users of EIS may be unavoidably exposed to such content.~~ Members and other users shall access IT~~EIS~~ including email, text, and internet services at their own risk. Members and other users shall individually block offensive, indecent or objectionable content and report such content for a system wide remedy. This division includes standards for authorized and restricted uses of city IT~~EIS~~ and specifies remedial actions in the event a member is found in violation of this division.

Sec. 2-53. Scope of applicability.

~~This division applies to all members who conduct city business from any location during working and non-working hours.~~ This division applies to all information systems and information system components as well as members when using the City's IT.

Sec. 2-54. Prohibited activities.

(a) The city council hereby prohibits members from using IT~~EIS~~ for the purposes of engaging in the following activities:

(1) Use that interferes with member responsibilities to the City;

(2) Viewing electronic materials that contain obscene, pornographic, or otherwise offensive content;

(3 ~~2~~) Dissemination of sexually explicit, hate orientated, discriminatory, threatening or illegal images or information, including offensive jokes or cartoons;

(4 ~~3~~) Accessing any web site that promotes discrimination based on race, religion, gender, age, marital status, national origin, or disability;

(5 4) Accessing gambling sites;

(6 ~~5~~) Promoting or endorsing any outside business venture;

(7) Chat or messenger services not related to official City business;

(8) Playing video type games or using streaming services that interrupt City business;

(9) Engaging in unauthorized fund-raising efforts (any fund-raising effort utilizing the City's IT must be approved by City Council);

(10) Engaging in political activities in violation of the law including, without limitation, the Little Hatch Act (Section 104.31, Florida Statutes) and other election and ethics laws

(11 ~~6~~) Downloading games, audio or video files that are illegal, pirated, or incompatible software;

(12 ~~7~~) Distributing, sending, or forwarding chain letters that contain discriminatory or offensive content;

(13 ~~8~~) Distributing, sending, or forwarding copies of any document, file, or application in violation of copyright laws;

(14) Accessing the electronic information of others without a bona fide business purpose;

(15 ~~9~~) Transmitting confidential information without authorization or using an unsecured means of transmission;

(16 ~~10~~) Engaging in conduct that is threatening, libelous, intemperate, abusive or insulting towards the city or its various members, users, boards, corporate organizations, employees, and citizens; and

(17 ~~11~~) Any violation of local, state or federal law.

(b) The above list of prohibitions is not an all-inclusive list of prohibited IT~~EIS~~ usage. The city council prohibits a member's use of the IT~~EIS~~ when a member engages in any action or failure to act which the member should have reasonably understood to be inappropriate and/or wrong, based on the requirements of the city's ordinances, rules, policies and procedures, or the laws of the federal, state and local jurisdictions.

Sec. 2-55. Non-city business uses.

(a) Any usage of city IT~~EIS~~ for non-city business purposes must conform to the following requirements:

(1) Use shall not include any of the prohibited activities listed in section 2-54 including those that would reflect unfavorably on the City and its various organizations, employees, members and citizens.

(2) Use shall not otherwise impact the system bandwidth as determined by the IT ~~division manager~~Director that negatively impacts the IT~~EIS~~ and other city technological systems and the normal flow of city operations.

(3) Use is scheduled so as not the infringe upon City business.

Sec. 2-56 Security and licensing issues.

The IT ~~division~~Department of the city shall advise all members of the security threats posed by use of IT~~EIS~~. Security threats may be introduced to the city computing environment by sending or receiving information through the internet. The threat can be in the form of viruses (attached to documents or downloaded software) that are designed to corrupt databases and/or to directly attack the system by hackers with the intention of accessing sensitive information or disrupting the operations of the city. ~~A secure firewall~~Software and hardware will be administered by the IT ~~division~~Department to protect against the threat of outside intruders who attempt to gain unauthorized access to city systems and data.

All electronic or digital software, data files, and applications residing on the City's IT infrastructure are either owned by or licensed solely for the City's use. Unauthorized reproduction of such software, data files, or applications is prohibited.

Software and applications that are not owned or licensed by the City may contain computer "viruses", "malware" or "ransomware" which are capable of inflicting enormous damage upon the City's IT infrastructure. In addition, the City may face liability under copyright laws if users make or use unauthorized copies of copyright protected programs. As a result, users shall not install or use non-City owned or licensed software or applications on the City's IT infrastructure, except as specifically authorized by the City's IT Department in writing on a case-by-case basis. The IT Department shall be responsible for installing and configuring any and all software and applications which must be authorized. Exceptions may be required and permitted through written requests to the IT Director. No other software or applications may be installed, without written approval by the IT Director.

Each City-issued mobile device shall have Mobile Device Management (MDM) software installed by the IT Department which shall allow the IT Department to restrict unauthorized use and unauthorized applications.

Sec. 2-57. Public records management.

(a) Each user of city IT~~EIS~~ shall take responsibility for proper retention of and shall retain emails and text messages sent or received in ~~the furtherance of~~connection with city business. All members have been provided a city email account and shall use the city email account when communicating about city business in order to ensure the proper retention of all public records in accordance with law. All City cell phones shall have text message archiving enabled prior to use of text messaging by a Member. The use of text messaging should be limited to messages that are transitory in nature and created primarily to communicate information of short-term value. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. All emails sent or received using a city provided email account are subject to public disclosure as required by law. In the event that unavoidable circumstances require an email or text message related to official city business be sent to or received from a personal email account or personal cell phone, the same shall be properly maintained and retained by the person subject to this policy who sent or received the communication. If the member wishes not to be responsible for the retention and potential production of said public record, the member may forward the communication to the board member's city-issued email account or to cityclerk@port-orange.org within seventy-two (72) hours of being sent or received to ensure~~ for~~ proper maintenance, retention, and production in accordance with law. Emails and text messages being preserved in this manner shall identify the sender, recipient(s), and contents of the message along with the date and time of transmission.

(b) Members should avoid using City IT for personal communications and are encouraged to use **personal** email accounts or **personal** cell phones when communicating private, non-business-related information which the member does not wish to be made public. The City Clerk's Office will endeavor to omit personal (non-public) records when processing public records requests involving emails and text messages. HOWEVER, THE CITY SHALL NOT BE RESPONSIBLE FOR THE RELEASE OF ANY PRIVATE/PERSONAL COMMUNICATION THAT WAS SENT OR RECEIVED INCLUDING, WITHOUT LIMITATION, EMAILS AND TEXT MESSAGES. ~~Members are encouraged to use personal email accounts for personal communications. Personal emails are considered those emails sent or received from a private network which are completely personal to the individual in nature and have no relationship to city operations or official city business, and are not made in connection with the official business of any public body, officer, employee, or board member of the city or persons acting on the city's behalf. The city shall not be held liable for the public release of any email that the member has received or sent from a city provided email account.~~

(c) All emails and text messages made or received in connection with the transaction of official City business, EVEN FROM PERSONAL EMAIL ACCOUNTS AND PERSONAL CELL PHONES, shall be subject to public disclosure. ~~Even emails and text messages from personal email accounts and personal cell phones made or received in connection with the transaction of official city business shall be subject to public disclosure as required by law.~~ It shall be the responsibility of each person subject to this division to retain any public record stored on a personal email account or personal cell phone in accordance with this division.

(d) Upon the end of the member's service, a member's IT account will be inactivated. All public records that are not already stored within City IT infrastructure shall be provided to the records custodian to be maintained in accordance with applicable law. Each person subject to this policy shall coordinate with the records custodian on the proper handling and disposition of public records in their possession prior to any destruction or disposal of public records. ~~Once no longer serving on a city board, a volunteer's EIS account will be inactivated as part of the off-boarding process. All public records that are not already stored within city EIS shall be provided to the records custodian to be maintained in accordance with applicable law. Each person subject to this policy shall coordinate with the records custodian on the proper handling and disposition of public records in their possession prior to any destruction or disposal of public records.~~

Sec. 2-58. Additional Use Requirements

1. Members must promptly report the theft, loss, or unauthorized disclosure of City IT.

2. Members shall not share passwords for City IT.

3. Members must use extreme caution when opening e-mail attachments or clicking links.

4. Members must complete training courses as required by the IT Director or designee.

THE CITY OF PORT ORANGE RESERVES THE RIGHT TO EXAMINE ALL DATA STORED, VIEWED, OR TRANSMITTED ON ANY CITY IT TO ENSURE THAT ALL USERS ARE IN COMPLIANCE WITH THIS POLICY. USERS OF CITY IT SHALL HAVE NO PRIVACY RIGHTS IN ANY INFORMATION SENT, RECEIVED OR STORED WITH THE USE OF CITY IT INFRASTRUCTURE.

Sec. 2-59~~8~~ Penalties.

The city council shall have the sole discretion and authority to enforce this division for any member violating any provision of this division by revoking the member's IT~~EIS~~ access ~~or~~ by asking the member to resign or removing the member from ~~an appointment to an~~the agency, board or commission.

Secs. 2-60~~59—~~2-65. Reserved.

<u>SECTION 2.</u> All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

<u>SECTION 3.</u> 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.

<u>SECTION 4</u>. The provisions of this ordinance shall become and be made a part of the Code of Ordinances 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 the ordinance.

<u>SECTION 5:</u> Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected.

<u>SECTION 6.</u> This Ordinance shall become effective immediately upon final passage by the City Council.

[REMAINDER OF PAGE LEFT BLANK]

____
MAYOR DONALD O. BURNETTE

ATTEST:

____
Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the __ day of ___________, 2024.

Passed and adopted on second and final reading on the ___ day of ____________, 2024.

Reviewed and Approved: ______________________________________
Matthew J. Jones, City Attorney

[CA-8246]

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. 2024-24 – Amending Information Technology Policies for City Boards and Commissions

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 amends the Code of Ordinances Chapter 2, Article III – Boards and Commissions, Division 1, Electronic Information Systems to implement terminology that is consistent with recently adopted Information Technology and Cybersecurity Policies. The amendments include the change of terminology from "Electronic Information Systems" to "Information Technology", additional prohibited uses of Information Technology, security and licensing issues and public records management.

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:

No

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

N/A

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

None

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.*