



# City of Palm Coast Agenda COUNCIL WORKSHOP

City Hall  
160 Lake Avenue  
Palm Coast, FL 32164  
www.palmcoastgov.com

**Mayor David Alfin**  
**Vice Mayor Ed Danko**  
**Council Member Cathy Heigher**  
**Council Member Nick Klufas**  
**Council Member Theresa Pontieri**

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**Tuesday, November 14, 2023**

**9:00 AM**

**COMMUNITY WING**

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## City Staff

**Denise Bevan, City Manager**

**Neysa Borkert, City Attorney**

**Kaley Cook, City Clerk**

- Public Participation shall be in accordance with Section 286.0114 Florida Statutes.
- Other matters of concern may be discussed as determined by City Council.
- If you wish to obtain more information regarding the City Council's agenda, please contact the City Clerk's Office at 386-986-3713.
- In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a reasonable accommodation to participate in any of these proceedings or meeting should contact the City Clerk at 386-986-3713, at least 48 hours prior to the meeting.
- City Council Meetings are streamed live on YouTube at <https://www.youtube.com/user/PalmCoastGovTV/live>.
- It is proper meeting etiquette to silence all electronic devices, including cell phones while Council is in session.
- Any person who decides to appeal any decision of the City Council with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose, may need to hire a court reporter 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.

## **A CALL TO ORDER**

## **B PLEDGE OF ALLEGIANCE TO THE FLAG AND A MOMENT OF SILENCE**

## **C ROLL CALL**

## **D PUBLIC PARTICIPATION**

Public Participation shall be held in accordance with Section 286.0114 Florida Statutes. And pursuant to the City Council's Meeting Policies and Procedures:

- (1) Each speaker shall at the podium, provide their name and may speak for up to 3 minutes.
- (2) The Public may provide comments to the City Council relative to matters not on the agenda at the times indicated in this Agenda. Following any comments from the public, there may be discussion by the City Council.

- (3) When addressing the City Council on specific, enumerated Agenda items, speakers shall:
- (a) direct all comments to the Mayor;
  - (b) make their comments concise and to the point;
  - (c) not speak more than once on the same subject;
  - (d) not, by speech or otherwise, delay or interrupt the proceedings or the peace of the City Council;
  - (e) obey the orders of the Mayor or the City Council; and
  - (f) not make any irrelevant, impertinent or slanderous comments while addressing the City Council; which pursuant to Council rules, shall be considered disorderly.
- (4) Any person who becomes disorderly or who fails to confine his or her comments to the identified subject or business, shall be cautioned by the Mayor and thereafter must conclude his or her remarks on the subject within the remaining designated time limit.

Any speaker failing to comply, as cautioned, shall be barred from making any additional comments during the meeting and may be removed, as necessary, for the remainder of the meeting.

Members of the public may make comments during the public comment portion of the meeting. Please be advised that public comment will only be permitted during the public comment portions of the agenda at the times indicated by the Chair during the meeting.

## **E PRESENTATIONS**

- 1 PRESENTATION - UTILITY RATE STUDY**
- 2 PRESENTATION - ECONOMIC DEVELOPMENT OVERVIEW**
- 3 PRESENTATION - COMMUNITY CATS**
- 4 PRESENTATION - SIGN CODE AMENDMENT**
- 5 RESOLUTION 2023-XX APPROVING A PURCHASE AND SALE AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP, INC., FOR THE CITY OF PALM COAST TO PURCHASE LAND**
- 6 RESOLUTION 2023-XX APPROVING A PURCHASE AND SALE CONTRACT BETWEEN THE CITY OF PALM COAST AND FORESTAR (USA) REAL ESTATE GROUP, INC., FOR THE CITY TO SELL CITY PROPERTY AND FIND THE CITY PROPERTY TO BE SURPLUS PROPERTY**

## **F PUBLIC PARTICIPATION**

Remainder of Public Comments is limited to three (3) minutes each.

## **G DISCUSSION BY CITY COUNCIL OF MATTERS NOT ON THE AGENDA**



**H DISCUSSION BY CITY ATTORNEY OF MATTERS NOT ON THE AGENDA**

**I DISCUSSION BY CITY MANAGER OF MATTERS NOT ON THE AGENDA**

**J ADJOURNMENT**

**7 AGENDA WORKSHEET AND CALENDAR**

# City of Palm Coast, Florida Agenda Item

**Agenda Date:** November 14, 2023

<b>Department</b> WATER AND WASTEWATER <b>Division</b> UTILITY	<b>Amount</b> N/A <b>Account #</b> N/A
<b>Subject:</b> PRESENTATION - UTILITY RATE STUDY	
<b>Presenter:</b> Steve Flanagan, Utility Director	
<b>Attachments:</b> 1. Presentations (2)	
<b>Background:</b>  <b>Council Priority:</b> <b>D. Sustainable Environment &amp; Infrastructure</b>  To ensure revenues are sufficient to support the operation, maintenance, and expansion of the water and sewer utility, the City periodically conducts a review of the established rates and fees. The City enlisted the services of Stantec Management Consulting in Florida to conduct a <i>Water and Wastewater Revenue Sufficiency and Capital Facilities Fees Study</i> . Calculations are needed to assess the rates necessary to maintain the infrastructure of the water and sewer system. The consultant will recommend adjustments to various rates including monthly base charges and per gallon charges as well as adjustments to water and sewer capacity fees that are assessed for new construction. Rate studies are performed to assure that the studied entity will be sustainable over time to cover operating costs, capital improvements costs, stay within financial policies, and cover debt payments with a reserve for emergencies. Much information must go into this evaluation and ultimately the result that is derived from all the information that goes into the study. These studies are usually performed every 3 to 5 years to keep up with the changes that occur in the operation, growth changes, material cost changes, labor rates, and equipment costs as well as maintenance and other factors.  Based on the current economic factors changing much of how our economy functions, such as Covid impact, supply chain issues, inflation, labor shortages, and the fact that our past few studies have not been of the most comprehensive nature, this study is a more thorough dive into our system needs.  During the regularly scheduled City Council meeting of November 14, 2023, beginning at 9:00 a.m., utility staff and the utility rate consultant will present its findings, options for consideration, and recommendations for cost adjustments.	
<b>Recommended Action:</b> <b>THIS IS A PRESENTATION ONLY FOR INFORMATION, AND TO REQUEST COUNCIL DIRECTION WITH A FUTURE RATE CONSIDERATION TO COME BACK TO COUNCIL IN DECEMBER</b>	

# Rate Study Presentation

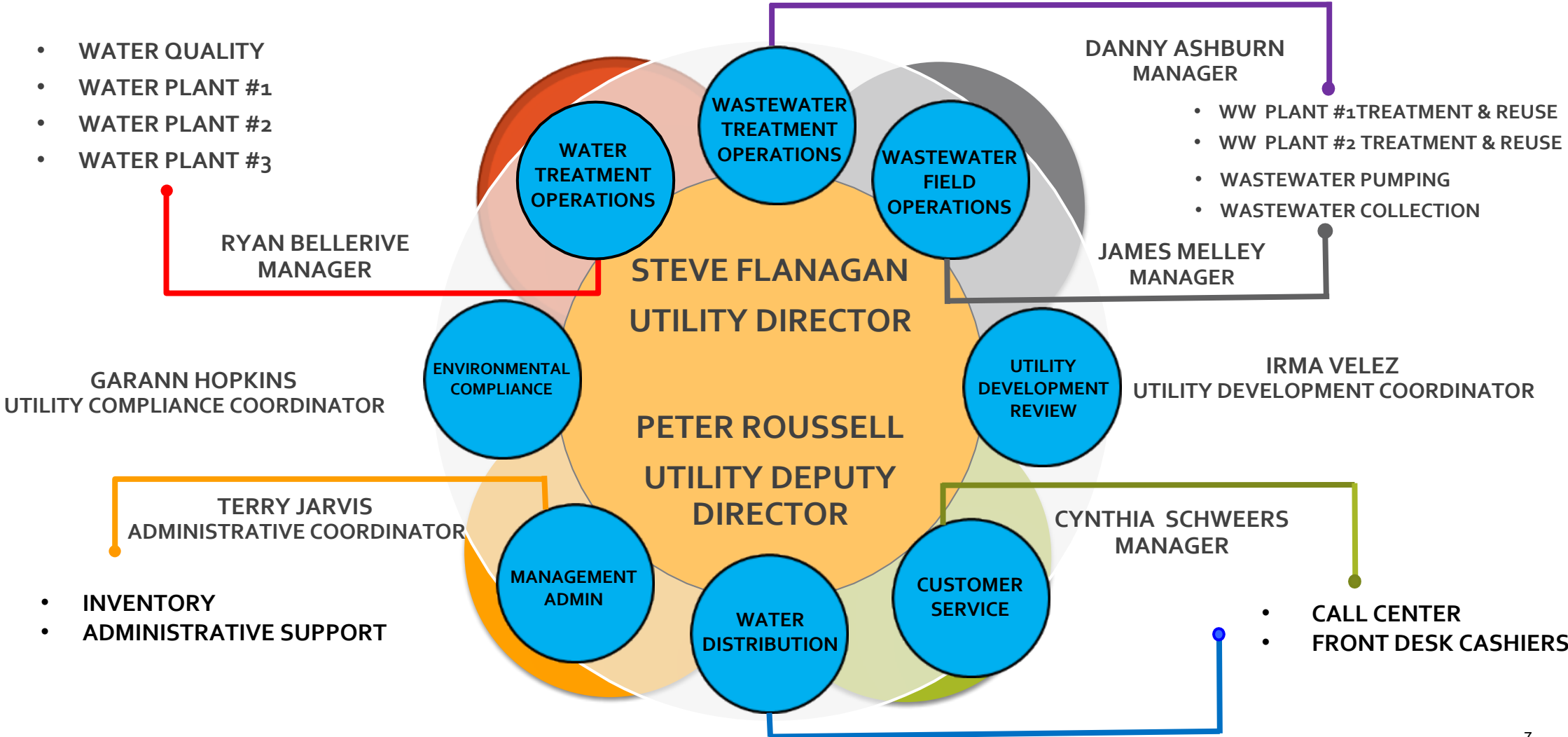


**THE UTILITY  
DEPARTMENT**

# **Rate Study Presentation Agenda**

- 1) Review Utility Infrastructure and Needs**
- 2) Present Rate Study Analysis**
- 3) Discuss Options**
- 4) Next Steps**

# UTILITY DIVISIONS





# *Utility Administration Offices/Inventory*





# *Water Treatment Plant Number One (Lime Softening Facility)*



Conventional Lime Softening Facility



Originally Constructed in 1979  
as a 2.5 MGD Facility



Expanded to 6.0 MGD in 1982



# Water Treatment Plant Number Two (Membrane Softening Facility)

Expanded to 6.384 MGD in 2004



**2015 Added 1.2  
MGD of additional  
capacity  
(7.58 MGD Total)**



# *Water Treatment Plant Number Three (Reverse Osmosis Facility)*



Completed July 2008 at 3.0 MGD



## Membrane Softening Designed for Brackish Reverse Osmosis





# Water Quality

One of the primary goals of the Water Operations Division is to protect the public health of customers. The water quality monitoring program is based on the requirements of the U.S. Environmental Protection Agency's National Primary and Secondary Drinking Water Regulations.

The Water Quality Division's staff performs a wide range of duties such as:

- Collects bacteriological samples at representative points in the distribution system
- Performs routine chlorine residual inspections
- Administers the Lead and Copper program
- Maintains fire hydrants
- Responds to customer concerns
- Evaluates the overall quality of the drinking water within the system



## 67 Water Supply Wells

- 51 Intermediate aquifer wells serving water treatment plant number one (lime softening facility) and water treatment plant number three - 60 to 80 feet deep
- 16 Floridan aquifer wells supplying water treatment plant number two (membrane softening facility) 220 to 300 feet deep





# *Utility Meter Division*

- Meter Division currently reads 56,090 meters every 28-32 days.
- Meter Techs perform an average of 302 reread work orders a month, repair/replace an average of 400 meters monthly, we plan to start accelerating the meter retirement program to the point of replacing roughly 800 meters a month.
- Techs install all new meter transmitters as well as replace and repair units that malfunction. For a total of roughly 300 units/month.



The Utility Department has always prided itself on having well-run and maintained facilities and a highly trained staff who deliver great service and high-quality water.

That level of excellence has been rewarded again and again with about 90 regional, state and national awards over the past 40 years.

Most visible nationally, our “Water Buoys” team has won the American Water Works Association’s Top Ops National Championship 7 times since 2006 – including in June 2017. The team is also the State Champions, having won 13 times.





# *Water Reclamation Facility Number One*



Several Capacity Upgrades  
over the years  
leading to the  
current 6.83 MGD  
Capacity



Latest Capacity  
Expansion  
Completed in 2006





# Water Reclamation Facility

## Number 2



2 MGD Advanced  
Waste Treatment  
Facility Completed  
in 2018



Currently Under  
Construction of a  
2 MGD Capacity  
Expansion



Wastewater Treatment Plant No. 2  
ITBCDCME1602

Image # 34  
Date : 09.05.2018  
Tel: 888.542.0231





# Disposal of Treated Wastewater

After being treated, Palm Coast's treated wastewater – called reuse water – is disposed of in 3 ways:

- Irrigation – reuse water is used for irrigation on medians to keep our City looking beautiful. It is also used by local golf courses, athletic fields, in Town Center and at some private homes.
- RIB (Rapid Infiltration Basin System) – The RIB is a system that replenishes the shallow aquifer. Water is pumped from the treatment facility into the RIB water basins to filter back into the water table.
- Outfall – At times of heavy rain, the City has a permit for limited “wet-weather” discharge into the Intracoastal Waterway.

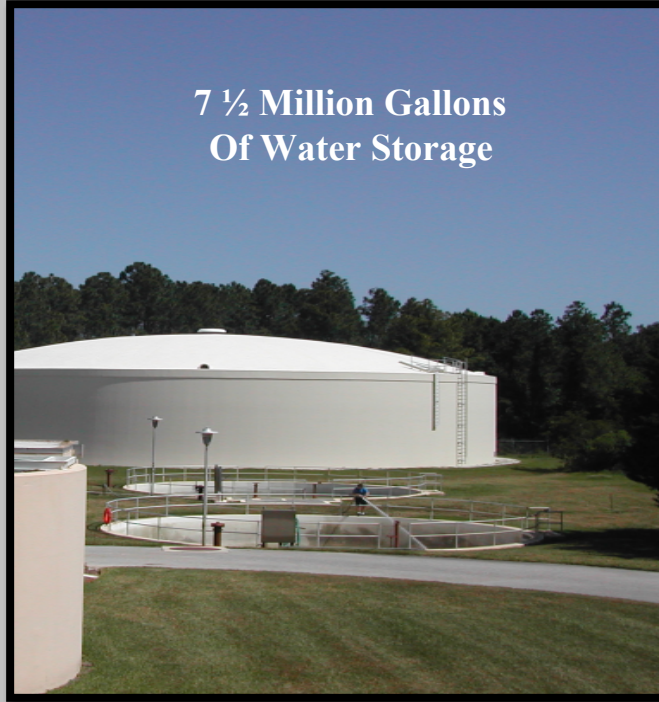




**800+ Miles of Wastewater Pipelines**



**6 Water Storage Tanks**



**7 ½ Million Gallons  
Of Water Storage**

**4,007 Fire Hydrants**



**55,000+ Meters**



**800+ Miles of Water Mains**



**3 Wastewater Effluent Disposal Sites**



**1 Effluent Pumping Facility**



**16,000+ PEP Units**



**165 Wastewater Pump Stations**





# UTILITY CREWS SERVING OUR CITY

Pump Station Upgrades



Evaluating Pump Station Pipes



Unidirectional Flushing of Potable Water



Installing New Fire Hydrant

Installation of Filters



Gravity Sewer Main Repair



# Water Capital Project Highlights

<u>Projects:</u>	FY23	FY24	FY25	FY26	FY27	FY28
Water Treatment Plant # 3						
Membrane Replacement	-	-		1,500,000	-	-
Plant Expansion Design	-	1,500,000	-	-	-	-
Electrical Switchgear Upgrades	-	1,000,000	-	-	1,000,000	-
Plant Expansion Design/Construction - LOAN PER RATE STUDY		-	5,000,000	9,000,000	3,000,000	3,000,000
2MG Ground Storage Tank		-	-	1,500,000	1,000,000	-
Wellfield and Wells			-			
Wellfield Expansion WTP #3 Phase 3 - Brackish/Fresh	100,000	1,000,000	-	-	-	-
Test Wells	100,000	50,000				
Wellfield Expansion SW-24 SW-25	-	-	-	1,000,000	4,000,000	3,000,000
Water Treatment Plant #1				-	-	
Lime Sludge Handling - Design and Facility	25,000	500,000	2,000,000	-	-	-
Water Treatment Plant #2				-	-	-
Sludge Thickener	100,000	1,900,000	250,000	-	-	-
2 MG Ground Water Storage Tank	-	1,500,000	1,000,000	-	-	21
Aeration Equipment		898,354				

# Wastewater Capital Project Highlights

	FY23	FY24	FY25	FY26	FY27	FY28
Wastewater Treatment Plant #1						-
Headworks Bypass System & Coating Rehab	500,000	2,500,000	-	-	-	-
Centrifuge Replacement (Replace with Screw Press) (ARPA)	-	5,200,000	-	-	-	-
Aeration Upgrades	200,000	2,800,000	-	-	-	-
Expansion and Rehabilitation		-	5,000,000	30,000,000	35,000,000	-
Reclaimed Water Ground Storage Tank (6MG) (Seek Grant Funding)		-	300,000	3,000,000	-	-
Spray field to RIB conversion (SEEK SRF FUNDING)		250,000	2,500,000	1,500,000	-	-
Generator Replacement (Seek Grant)	-	-	4,700,000	-	-	-
Electrical Upgrades		-	2,000,000	-	-	-
Force Mains					-	-
OKR - SR100 to future WWTP #3	150,000	1,500,000	2,000,000	-	-	-
OKR Force Main to WWTP #1	150,000	3,800,000	-	-	-	-
A1A Force Main Extension (Jungle Hut to Malacompra) - ARPA	400,000	2,818,192	-	-	-	-
A1A Force Main Extension (Malacompra to Marineland) - County Grant not awarded	-	500,000	3,000,000	4,500,000	-	-
Reclaimed Water Mains	-		-	-	-	-
Seminole Woods Reclaim Extension	-	1,000,000	-	-	-	-
Land Acquisition		-	1,000,000	1,000,000	-	-
Seminole Blvd to Citation & Dry Lake Pond Conversion		-	2,500,000	2,500,000	-	-
Wastewater Treatment Plant #2	-	-		-	-	-
Replace Membranes	-	-	1,500,000	-	-	-
Reclaimed Water Ground Storage Tank (2MG)		-	250,000	2,500,000	-	22
Aquifer Recharge Design and Construction		250,000	1,000,000	-	-	-

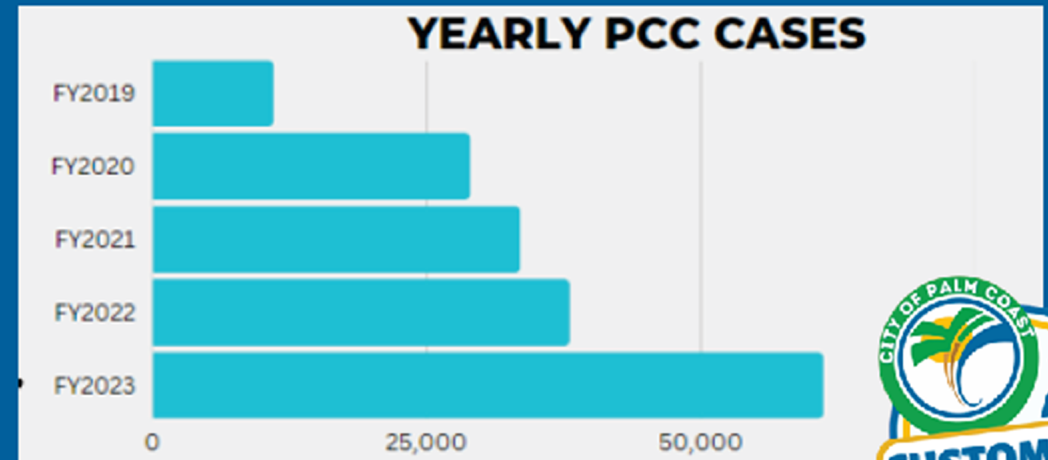
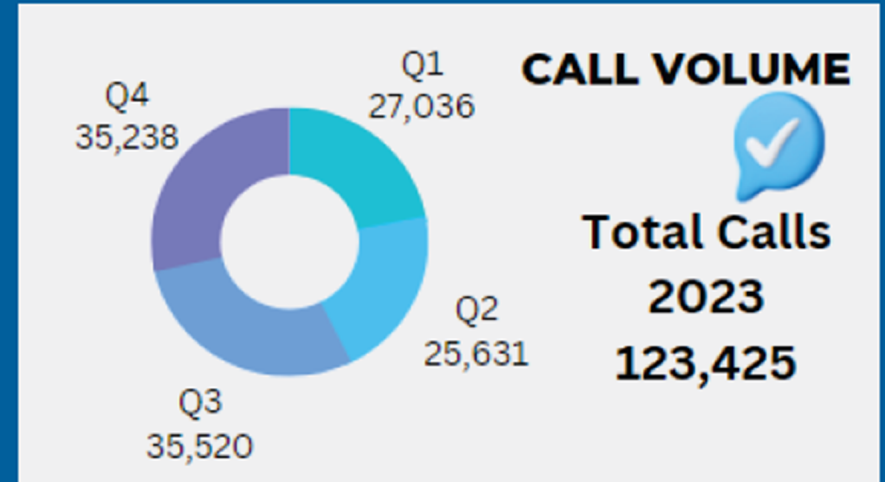
# Customer Service Division

Customer Service Division is responsible for over 60,000 Utility Accounts and servicing over 100,000 residents. Customer Service sets up new utility services, takes payments, and answer questions related to water, wastewater, trash, stormwater, public works, and much more.

The call center handles 12,000-13,000 calls monthly

Customer Service Staff handles about 11,000-12,000 cases monthly through Palm Coast Connect &

We have two front desk locations - located at City Hall & Utility Drive





# Environmental Compliance Division

- Federal and State Compliance Standards
- Water & Wastewater Permits
- Regulated & Hazardous Materials
- Growth Management
- Public Outreach
- Grants



# Rate Study Presentation

**Stantec  
Management &  
Technology  
Consulting**



**THE UTILITY  
DEPARTMENT**

**Mr. Eric Grau,  
Principal<sup>25</sup>**



# Utility Rate Study Presentation

City Council Workshop - November 14, 2023





# A Rate Study is a Series of Connected Investigations

**How  
Much?**

## **Revenue Sufficiency**

- Maintain policies & targets
- Fund system investment needs
- Achieve sustainable funding of operations

**From  
Whom?**

## **Defensible Allocation Methods**

- Utilize industry accepted approaches
- Determine revenue requirements for services provided

**How to  
Collect?**

## **Simple & Sustainable Rates**

- Collect revenue proportional to services provided
- Balance affordability and financial objectives
- Achieve revenue stability



# Best Practices to Ensure Sustainable & Equitable Rates



## Revenue Sufficiency

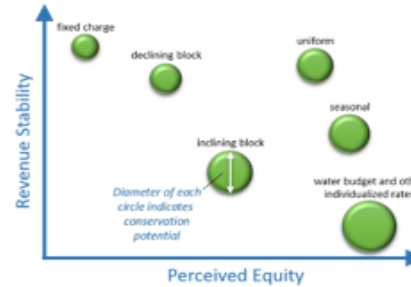
- Operating Costs
- Capital Costs
- Financial Policies
  - Debt Coverage
  - Reserves

Annually (Budget)



## Cost Allocation

- Evaluate Available Data
- Identify Methodology
- Compare to Revenue



## Rate Design

- Evaluate Objectives
- Identify Structures
- Set Parameters
- Customer Impacts



## Capacity Fees

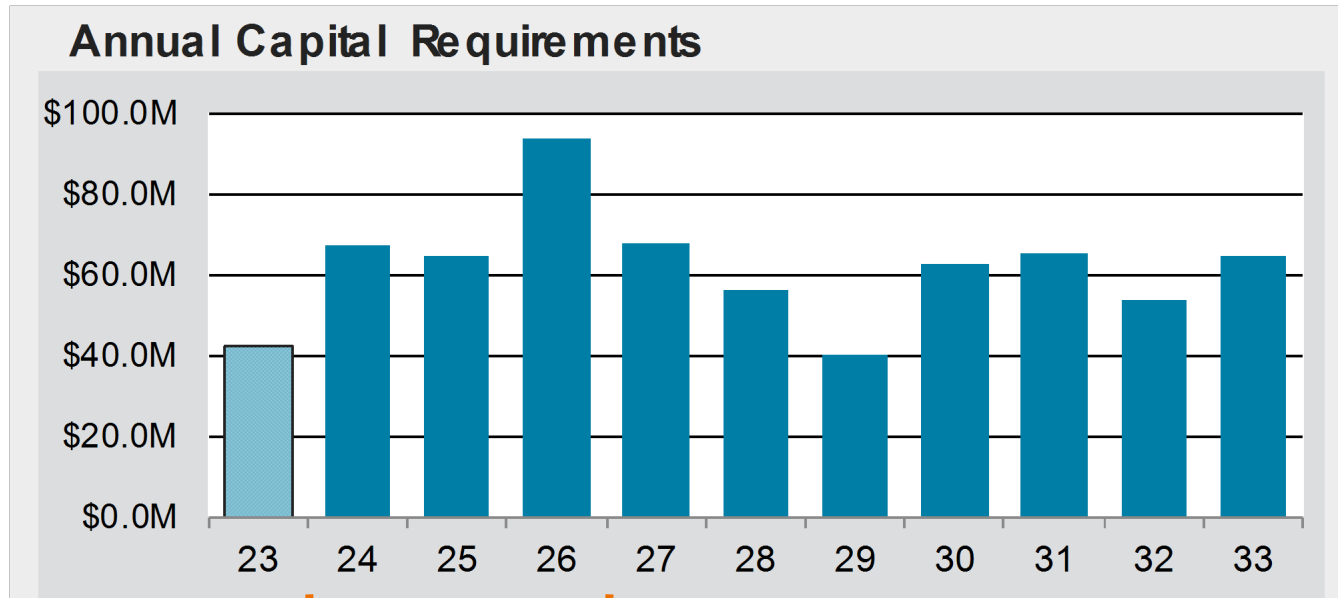
- Recover specific costs
- Growth pays for share of capital investments

Update Every 3 to 5 Years Based on Changes in Costs, Usage Profiles, Development Patterns, Industry Practices, Legal Precedent, Technology, etc.



# Revenue Sufficiency Analysis – Key Issues

- Region continues experiencing strong growth
- Significant capital investment required to serve growth



**FY 2024-2026 = \$225.1M**

**FY 2024-2033 = \$635.7M (future \$)**

Planned spending needs of note:

- Water Treatment Plants = \$111.5M
- Wastewater Treat. Plants = \$136.5M
- Future WW Treat. Plant #3 = \$77.4M
- Wells and Wellfields = \$96.9M
- Pep System = \$29.2M
- General Plant R&R = \$40.6M

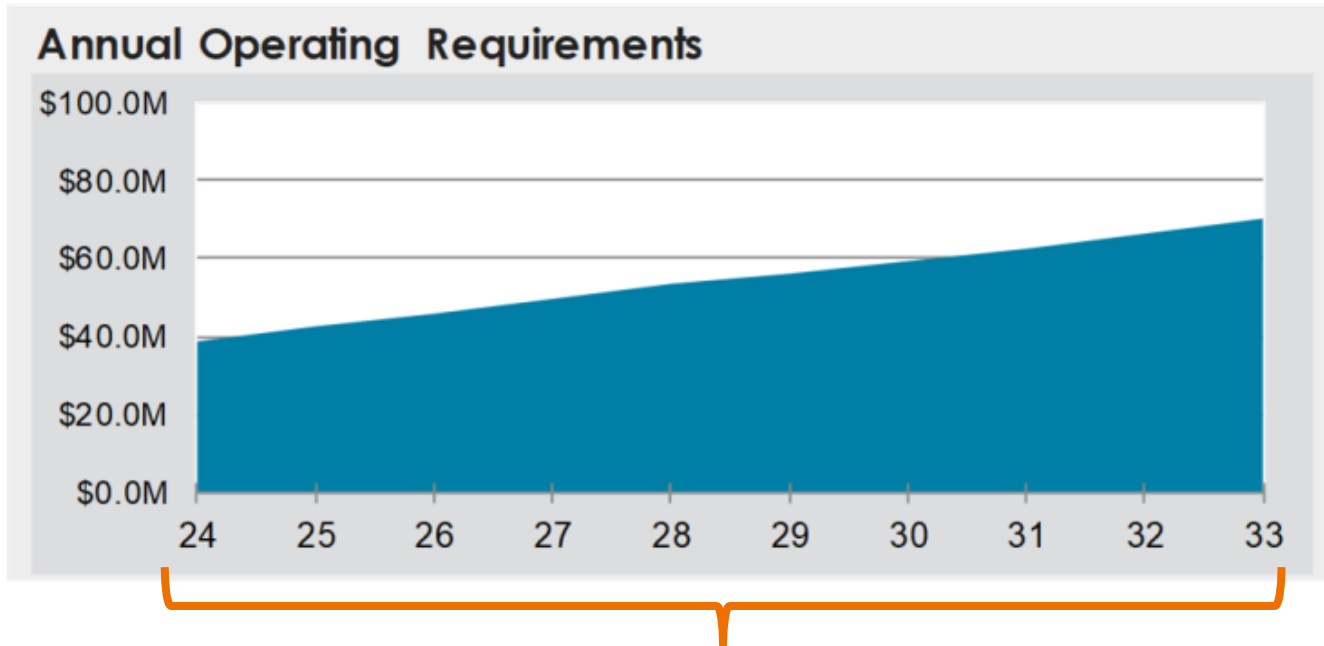
Available Resources:

- ARPA/County Grants = \$16.8M
- SRF Loan Proceeds = \$27.0M



# Revenue Sufficiency Analysis – Key Issues

- Additional personnel and equipment needed to operate and maintain growing system
- Higher inflation to key operating inputs persist in utility industry



**Spending by FY 2033 = \$70.1M / Yr.**

### Key Assumptions:

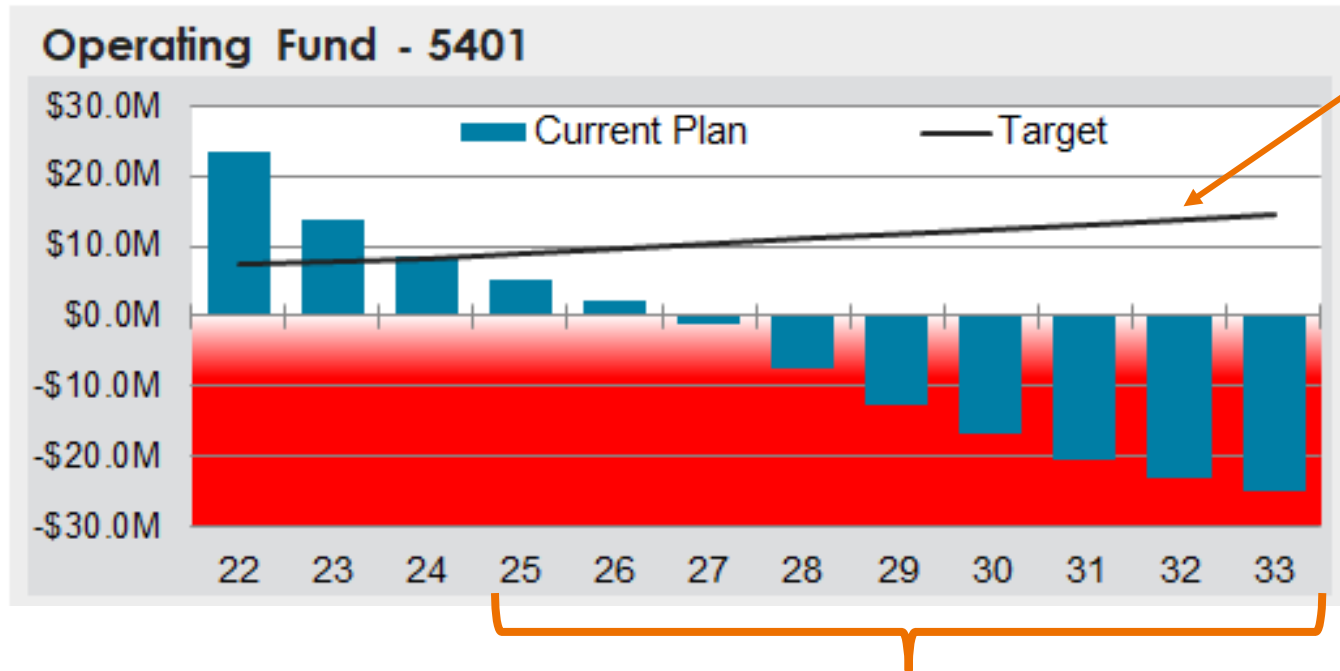
- Based upon FY 2024 Budget
- 5.5% avg annual inc. thereafter
- 97% budget spending execution
- Incremental OpEx by FY 2028:
  - Personnel = \$4.2M / Yr.
  - Equipment/Fleet = \$1.8M / Yr.

**FY 2024-2033 = 80.7% cumulative increase in operations spending**



# Revenue Sufficiency Analysis – Conclusions & Results

➤ Indexing rates by US-CPI is not sufficient to fund capital needs



**Required Minimum Balance = 2.5 Months of Operating Expenditures**

Key Assumptions:

- 3.0% Annual Rate Indexing
  - US-CPI = 2.7% 10-yr Avg
  - W&S Series = 3.9% 10-yr Avg

**Operating Reserves less than required minimum by FY 2025, exhausted by FY 2027**



# Revenue Sufficiency Analysis – Conclusions & Results

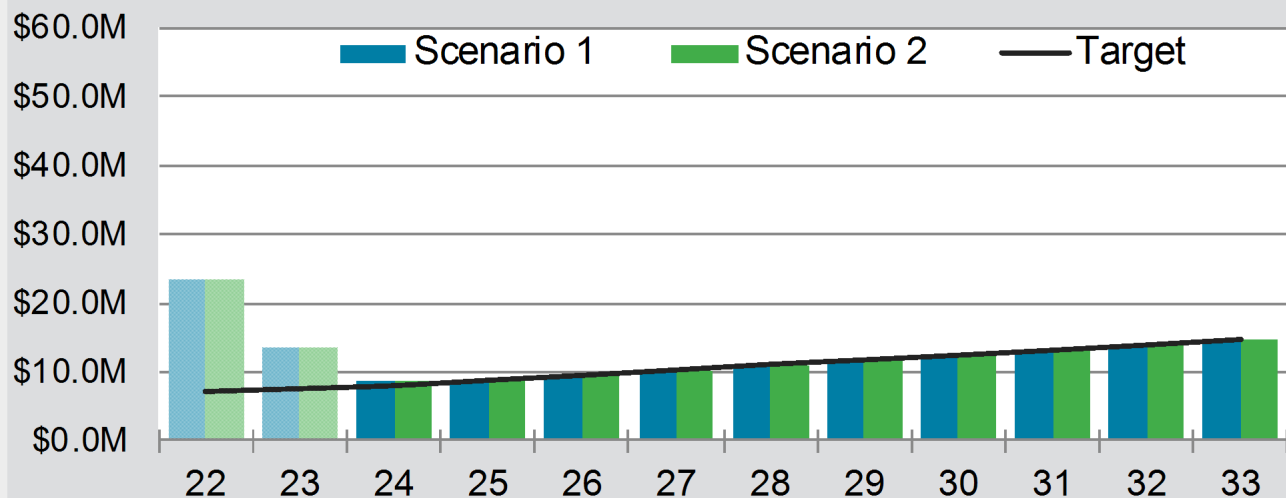
➤ Near-term rate increases needed to fund capital program

	FY 2024	FY 2025	FY 2026	FY 2027- FY 2033
Effective Date	Apr 1, 2024	Oct 1, 2024	Oct 1, 2025	Oct 1, 20xx
<b>Scenario 1</b>	N/A	<b>12.50%</b>	<b>6.00%</b>	3.75% per
<b>Scenario 2</b>	<b>6.00%</b>	<b>6.00%</b>	<b>6.00%</b>	3.75% per

## Similar Results for Each Scenario

- Fund all identified requirements
  - Operations
  - Capital
  - Debt Service
  - Operating Reserve Target
- Debt Coverage  $\geq 2.0x$  Net Rev
- Future borrowings; FY 2025-2033:
  - Revenue Bonds = ~\$217M
  - SRF Loans = ~\$59M

### Operating Fund - 5401





# 10-Year Financial Forecast

CITY OF PALM COAST, FLORIDA

	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
Effective Date	Apr 1, 2024	Oct 1, 2024	Oct 1, 2025	Oct 1, 2026	Oct 1, 2027	Oct 1, 2028	Oct 1, 2029	Oct 1, 2030	Oct 1, 2031	Oct 1, 2032
<b>SCENARIO 1</b>	<b>N/A</b>	<b>12.50%</b>	<b>6.00%</b>	3.75%	3.75%	3.75%	3.75%	3.75%	3.75%	3.75%
<b>Typical Bill</b>	<b>\$ 71.09</b>	<b>\$ 79.97</b>	<b>\$ 84.76</b>	\$ 87.94	\$ 91.24	\$ 94.66	\$ 98.21	\$ 101.90	\$ 105.72	\$ 109.68
Debt Coverage	2.17x	2.01x	2.07x	2.01x	2.03x	2.02x	2.11x	2.01x	2.11x	2.16x
Bond Proceeds	\$ -	\$ 22.6M	\$ 43.9M	\$ 20.1M	\$ 19.1M	\$ 12.6M	\$ 29.5M	\$ 29.9M	\$ 16.5M	\$ 22.5M
SRF Proceeds	\$ -	\$ 2.5M	\$ 21.7M	\$ 22.8M	\$ 12.0M	\$ -	\$ -	\$ -	\$ -	\$ -
<b>SCENARIO 2</b>	<b>6.00%</b>	<b>6.00%</b>	<b>6.00%</b>	3.75%	3.75%	3.75%	3.75%	3.75%	3.75%	3.75%
<b>Typical Bill</b>	<b>\$ 75.35</b>	<b>\$ 79.87</b>	<b>\$ 84.66</b>	\$ 87.84	\$ 91.13	\$ 94.55	\$ 98.10	\$ 101.77	\$ 105.59	\$ 109.55
Debt Coverage	2.33x	2.01x	2.07x	2.00x	2.02x	2.01x	2.10x	2.00x	2.09x	2.14x
Bond Proceeds	\$ -	\$ 21.0M	\$ 44.1M	\$ 20.3M	\$ 19.3M	\$ 12.9M	\$ 29.7M	\$ 30.2M	\$ 16.7M	\$ 22.9M
SRF Proceeds	\$ -	\$ 2.5M	\$ 21.7M	\$ 22.8M	\$ 12.0M	\$ -	\$ -	\$ -	\$ -	\$ -

“Typical” single-family residential monthly bill based upon water use of 2,500 gallons per month



# Revenue Sufficiency Analysis – Key Takeaways

- Significant capital investment required to serve growth
- Indexing rates by US-CPI is not sufficient to fund capital needs
- Greater near-term increases are recommended:

	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Effective Date	<b>Apr 1, 2024</b>	<b>Oct 1, 2024</b>	Oct 1, 2025
<b>SCENARIO 1</b>	N/A	<b>12.50%</b>	<b>6.00%</b>
<b>SCENARIO 2</b>	<b>6.00%</b>	<b>6.00%</b>	<b>6.00%</b>

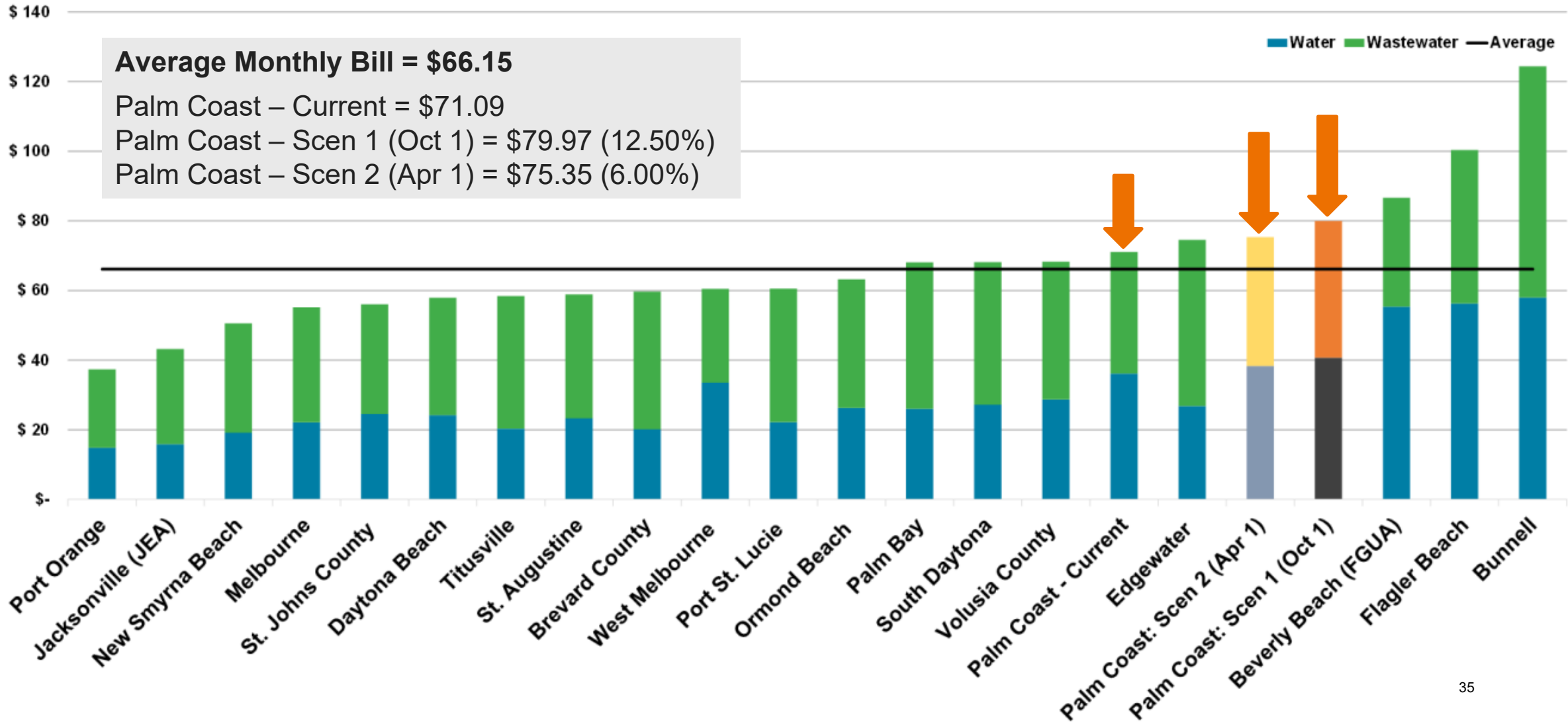




# Local Water & Wastewater Monthly Bill Survey:

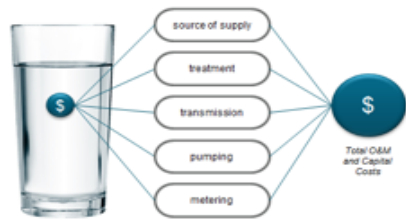
## Current Single-Family Residential Bills at 2,500 gallons per month

CITY OF PALM COAST, FLORIDA





# Best Practices to Ensure Sustainable & Equitable Rates



## Revenue Sufficiency

- Operating Costs
- Capital Costs
- Financial Policies
  - Debt Coverage
  - Reserves

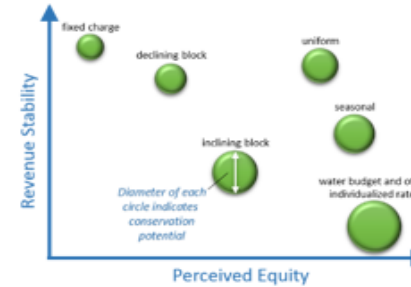
Annually (Budget)



## Cost Allocation

- Evaluate Available Data
- Identify Methodology
- Compare to Revenue

Update Every 3 to 5 Years Based on Changes in Costs, Usage Profiles, Development Patterns, Industry Practices, Legal Precedent, Technology, etc.



## Rate Design

- Evaluate Objectives
- Identify Structures
- Set Parameters
- Customer Impacts



## Capacity Fees

- Recover specific costs
- Growth pays for share of capital investments

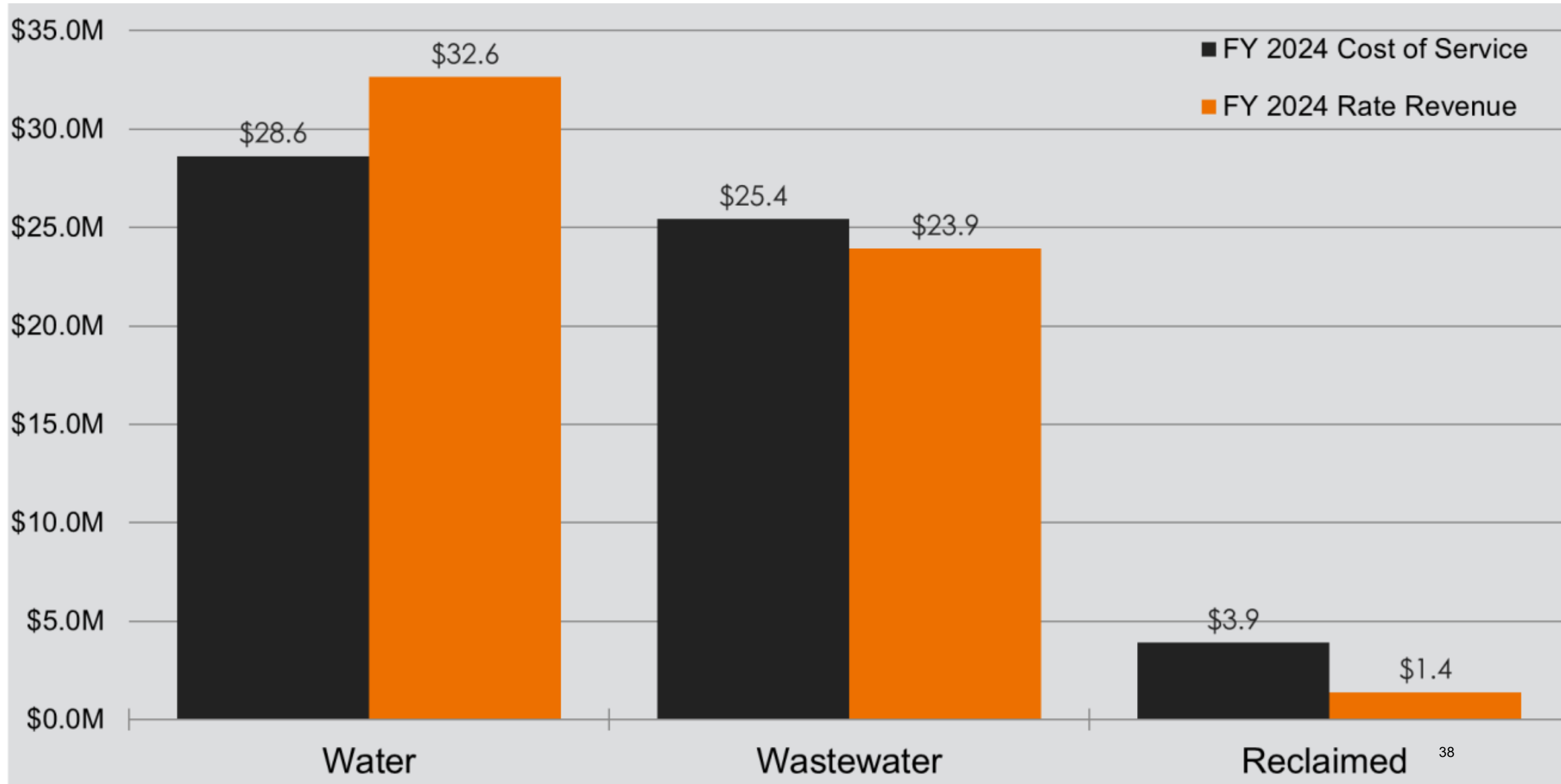


# Cost of Service Analysis – Overview

- Primary objectives of analysis:
  - Determine cost of providing services: water / wastewater / reclaimed
  - Determine extent to which current rates reflect proportional cost of services
  - Evaluate and address any significant cross-service subsidizations
  
- Key takeaways:
  - Wastewater revenue under-recovers allocated costs by ~6%
  - Water/Reclaimed revenues over-recover allocated costs by ~5%
  - **Given small variances, no corrective action is needed at this time**



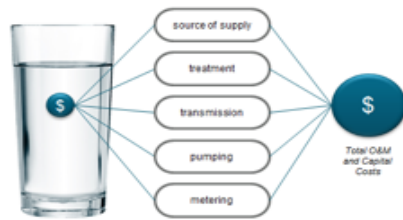
# Cost of Service Analysis – Test Year Results







# Best Practices to Ensure Sustainable & Equitable Rates



**Rate Design**

- Evaluate Objectives
- Identify Structures
- Set Parameters
- Customer Impacts

The Rate Design section is highlighted with an orange border. It features a graph with 'Revenue Stability' on the vertical axis and 'Perceived Equity' on the horizontal axis. The graph shows several green circles representing different rate structures: 'fixed charge' (top left), 'declining block' (top left-center), 'uniform' (top right), 'seasonal' (middle right), 'water budget and other individualized rates' (bottom right), and 'inclining block' (center). A vertical double-headed arrow next to the 'inclining block' circle is labeled 'Diameter of each circle indicates conservation potential'.



## Revenue Sufficiency

- Operating Costs
- Capital Costs
- Financial Policies
  - Debt Coverage
  - Reserves

Annually (Budget)

## Cost Allocation

- Evaluate Available Data
- Identify Methodology
- Compare to Revenue

Update Every 3 to 5 Years Based on Changes in Costs, Usage Profiles, Development Patterns, Industry Practices, Legal Precedent, Technology, etc.

## Capacity Fees

- Recover specific costs
- Growth pays for share of capital investments



# Rate Design Analysis – Overview

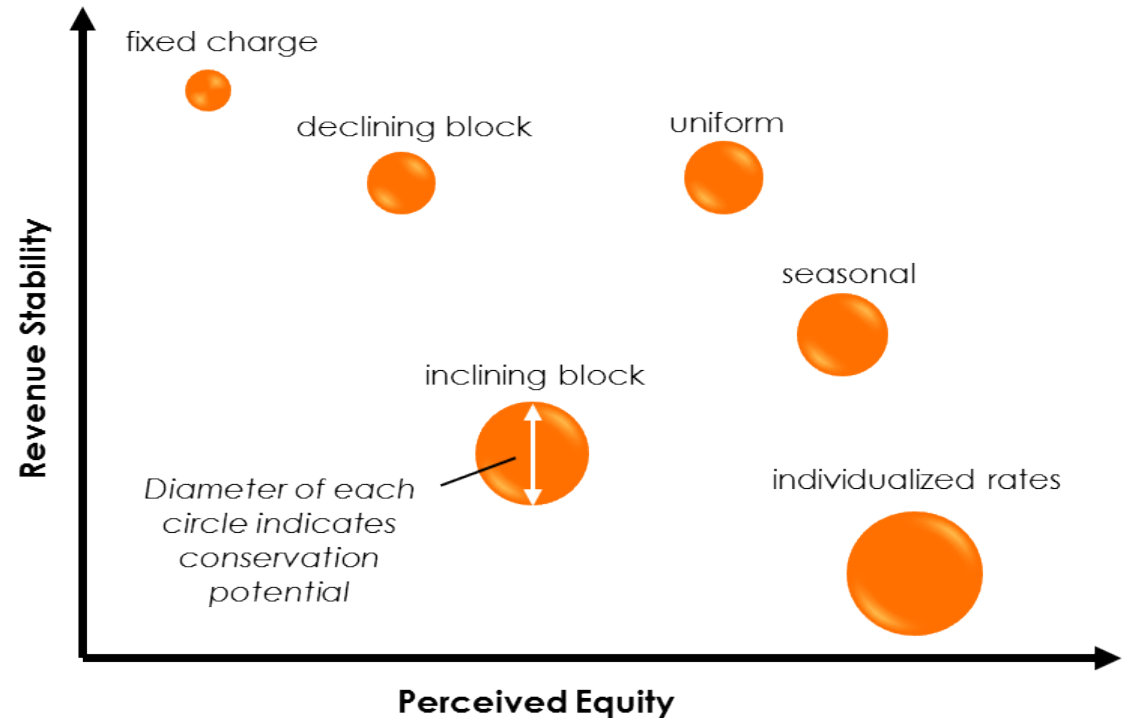
➤ Primary objective to design rates that fairly recover revenue across service type in a way that best balances City’s objectives

✓ **Rate structure considerations:**

- “ Conforms to industry practice
- “ Meets all legal requirements
- “ Easy to administer/understand
- “ Elasticity of demand & weather
- “ **Conservation and affordability**
- “ Stakeholder input/concerns

✓ **Other critical considerations:**

- “ Understanding distribution of costs
- “ Integrating financial considerations





# Current Rate Structure

Water Rates			
		Inside City	Outside City
<b>Fixed Charge</b>	<b>All Customer Classes</b>		
	5/8" x 3/4", 3/4"	\$ 21.57	\$ 26.96
	1"	\$ 53.92	\$ 67.40
	1.5"	\$ 107.84	\$ 134.80
	2"	\$ 172.56	\$ 215.70
	3"	\$ 345.07	\$ 431.34
	4"	\$ 539.16	\$ 673.95
	6"	\$ 1,078.36	\$ 1,347.95
	8"	\$ 1,725.40	\$ 2,156.75
	10"	\$ 2,480.24	\$ 3,100.30
<b>Volume Charges</b>		<b>Inside City</b>	<b>Outside City</b>
	<b>Single-Family &amp; Duplex</b>		
	0 - 5,000 gallons	\$ 5.84	\$ 7.30
	5,001 - 10,000 gallons	\$ 6.43	\$ 8.04
	10,001 - 20,000 gallons	\$ 8.19	\$ 10.24
	Above 20,000 gallons	\$ 10.51	\$ 13.14
<b>General &amp; Multi-Family</b>			
All Usage	\$ 6.70	\$ 8.38	

Wastewater Rates			
		Inside City	Outside City
<b>Fixed Charge</b>	<b>All Customer Classes</b>		
	5/8" x 3/4", 3/4"	\$ 21.19	\$ 26.49
	1"	\$ 52.92	\$ 66.15
	1.5"	\$ 105.82	\$ 132.28
	2"	\$ 169.31	\$ 211.64
	3"	\$ 338.67	\$ 423.34
	4"	\$ 529.12	\$ 661.40
	6"	\$ 1,058.28	\$ 1,322.85
	8"	\$ 1,693.28	\$ 2,116.60
	10"	\$ 2,434.07	\$ 3,042.59
<b>Volume Charges</b>		<b>Inside City</b>	<b>Outside City</b>
	<b>Single-Family &amp; Duplex</b>		
Up to 8,000 gallons	\$ 5.49	\$ 6.86	
<b>General &amp; Multi-Family</b>			
Up to 8,000 gallons	\$ 6.59	\$ 8.24	

## Current Fixed Charge Revenue Recovery:

- Water Fixed Charge = 45.6%
- Wastewater Fixed Charge = 48.4%





# Recommended Rate Structure Updates

Monthly Bill Components	Current Rate Structure	Recommended Updates
Water / Wastewater Fixed Charges	Flat fee scaled by meter size	No Change
<b>Water Volume Charges</b>	Inclining Block: 4 Tiers	<b>Add Lifeline Tier: 0-2 Kgal</b>
Wastewater Volume Charges	1 Tier Capped at 8 Kgal	No Change

## Goals:

- Mitigate bill impacts to fixed income / low water user
- Promote water conservation
- Ensure revenue stability is preserved

## Solutions:

- Add Lifeline Tier to Water Rates
- Apply next increase to only Water / Wastewater Volume Charges



# Recommended Rate Structure Updates

## Scenario 1: 12.50% on Oct 1, 2024

Water Rates			
		Inside City	Outside City
<b>All Customer Classes</b>			
<b>Fixed Charge</b>	5/8" x 3/4", 3/4"	\$ 21.57	\$ 26.96
	1"	\$ 53.92	\$ 67.40
	1.5"	\$ 107.84	\$ 134.80
	2"	\$ 172.56	\$ 215.70
	3"	\$ 345.07	\$ 431.34
	4"	\$ 539.16	\$ 673.95
	6"	\$ 1,078.36	\$ 1,347.95
	8"	\$ 1,725.40	\$ 2,156.75
	10"	\$ 2,480.24	\$ 3,100.30
<b>Volume Charges</b>			
		Inside City	Outside City
<b>Single-Family &amp; Duplex</b>			
	0 - 2,000 gallons	\$ 6.43	\$ 8.04
	2,001 - 5,000 gallons	\$ 8.04	\$ 10.05
	5,001 - 10,000 gallons	\$ 8.84	\$ 11.05
	10,001 - 20,000 gallons	\$ 11.26	\$ 14.07
	Above 20,000 gallons	\$ 14.47	\$ 18.09
<b>General &amp; Multi-Family</b>			
	All Usage	\$ 9.25	\$ 11.56

- No change to Fixed Charges
- Fixed Charge Rev Recovery = 39.4%

- Recover all 12.50% increase (once)
- New Lifeline Tier: 0-2,000 gallons
- Redistribution of Volume Charges to generate same level of revenues



# Recommended Rate Structure Updates

## Scenario 1: 12.50% on Oct 1, 2024

Wastewater Rates			
		Inside City	Outside City
<b>Fixed Charge</b>	<b>All Customer Classes</b>		
	5/8" x 3/4", 3/4"	\$ 21.19	\$ 26.49
	1"	\$ 52.92	\$ 66.15
	1.5"	\$ 105.82	\$ 132.28
	2"	\$ 169.31	\$ 211.64
	3"	\$ 338.67	\$ 423.34
	4"	\$ 529.12	\$ 661.40
	6"	\$ 1,058.28	\$ 1,322.85
	8"	\$ 1,693.28	\$ 2,116.60
	10"	\$ 2,434.07	\$ 3,042.59
<b>Volume Charges</b>		<b>Inside City</b>	<b>Outside City</b>
	<b>Single-Family &amp; Duplex</b>		
	Up to 8,000 gallons	\$ 7.17	\$ 8.96
	<b>General &amp; Multi-Family</b>		
Up to 8,000 gallons	\$ 8.60	\$ 10.76	

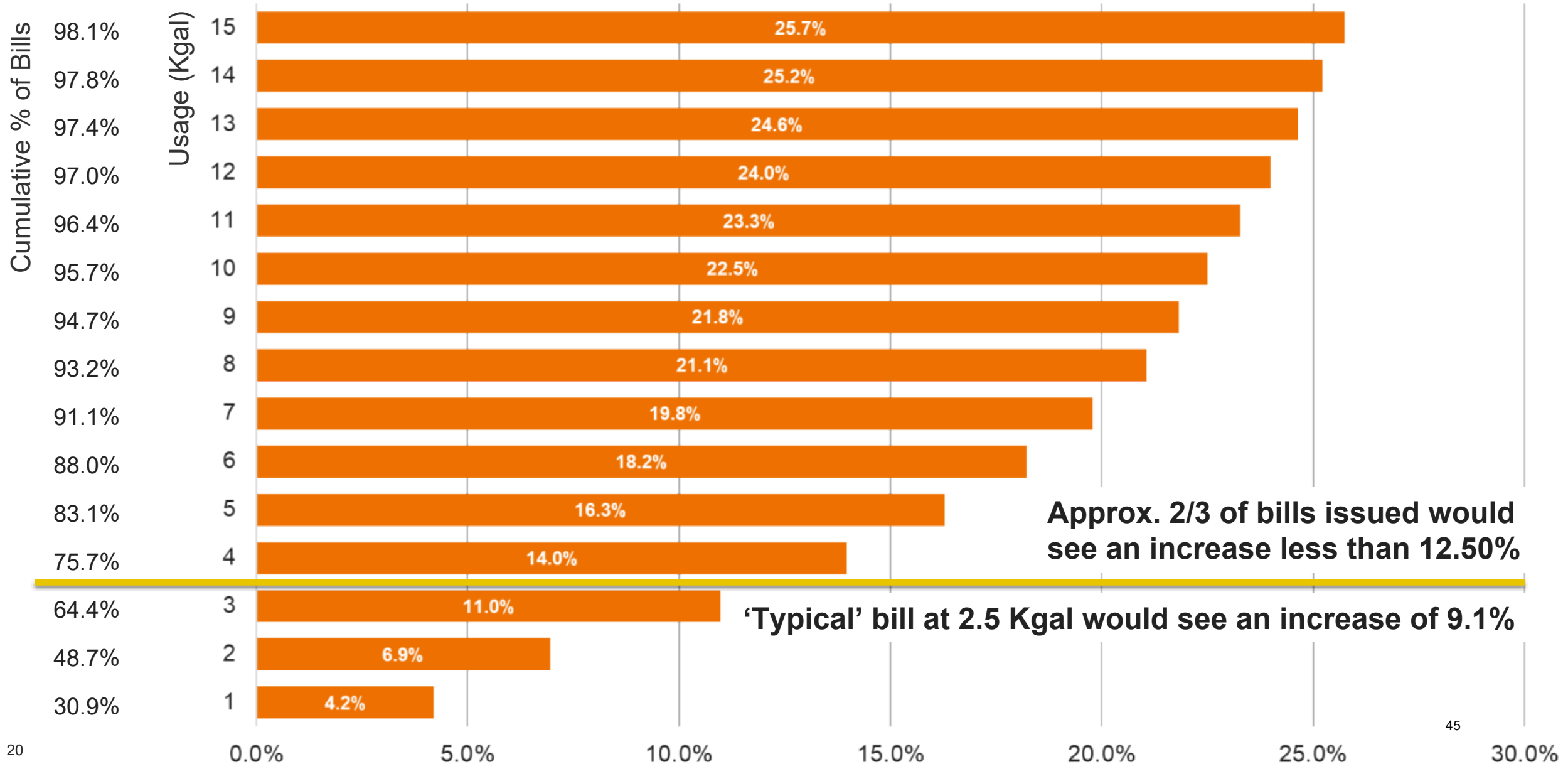
- No change to Fixed Charges
- Fixed Charge Rev Recovery = 41.8%

- Recover all 12.50% increase (once)





# Single Family Residential Bill Impacts: Scenario 1





# Recommended Rate Structure Updates

## Scenario 2: 6.00% on Apr 1, 2024

Water Rates			
		Inside City	Outside City
<b>All Customer Classes</b>			
<b>Fixed Charge</b>	5/8" x 3/4", 3/4"	\$ 21.57	\$ 26.96
	1"	\$ 53.92	\$ 67.40
	1.5"	\$ 107.84	\$ 134.80
	2"	\$ 172.56	\$ 215.70
	3"	\$ 345.07	\$ 431.34
	4"	\$ 539.16	\$ 673.95
	6"	\$ 1,078.36	\$ 1,347.95
	8"	\$ 1,725.40	\$ 2,156.75
	10"	\$ 2,480.24	\$ 3,100.30
	<b>Volume Charges</b>		
		Inside City	Outside City
<b>Single-Family &amp; Duplex</b>			
	0 - 2,000 gallons	\$ 5.28	\$ 6.60
	2,001 - 5,000 gallons	\$ 6.60	\$ 8.26
	5,001 - 10,000 gallons	\$ 7.26	\$ 9.08
	10,001 - 20,000 gallons	\$ 9.25	\$ 11.56
	Above 20,000 gallons	\$ 11.89	\$ 14.86
<b>General &amp; Multi-Family</b>			
	All Usage	\$ 7.60	\$ 9.49

- No change to Fixed Charges
- Fixed Charge Rev Recovery = 44.2%

- Recover all 6.00% increase (once)
- New Lifeline Tier: 0-2,000 gallons
- Redistribution of Volume Charges to generate same level of revenues



# Recommended Rate Structure Updates

## Scenario 2: 6.00% on Apr 1, 2024

Wastewater Rates			
		Inside City	Outside City
<b>Fixed Charge</b>	<b>All Customer Classes</b>		
	5/8" x 3/4", 3/4"	\$ 21.19	\$ 26.49
	1"	\$ 52.92	\$ 66.15
	1.5"	\$ 105.82	\$ 132.28
	2"	\$ 169.31	\$ 211.64
	3"	\$ 338.67	\$ 423.34
	4"	\$ 529.12	\$ 661.40
	6"	\$ 1,058.28	\$ 1,322.85
	8"	\$ 1,693.28	\$ 2,116.60
	10"	\$ 2,434.07	\$ 3,042.59
<b>Volume Charges</b>		<b>Inside City</b>	<b>Outside City</b>
	<b>Single-Family &amp; Duplex</b>		
	Up to 8,000 gallons	\$ 5.82	\$ 7.28
	<b>General &amp; Multi-Family</b>		
Up to 8,000 gallons	\$ 6.98	\$ 8.73	

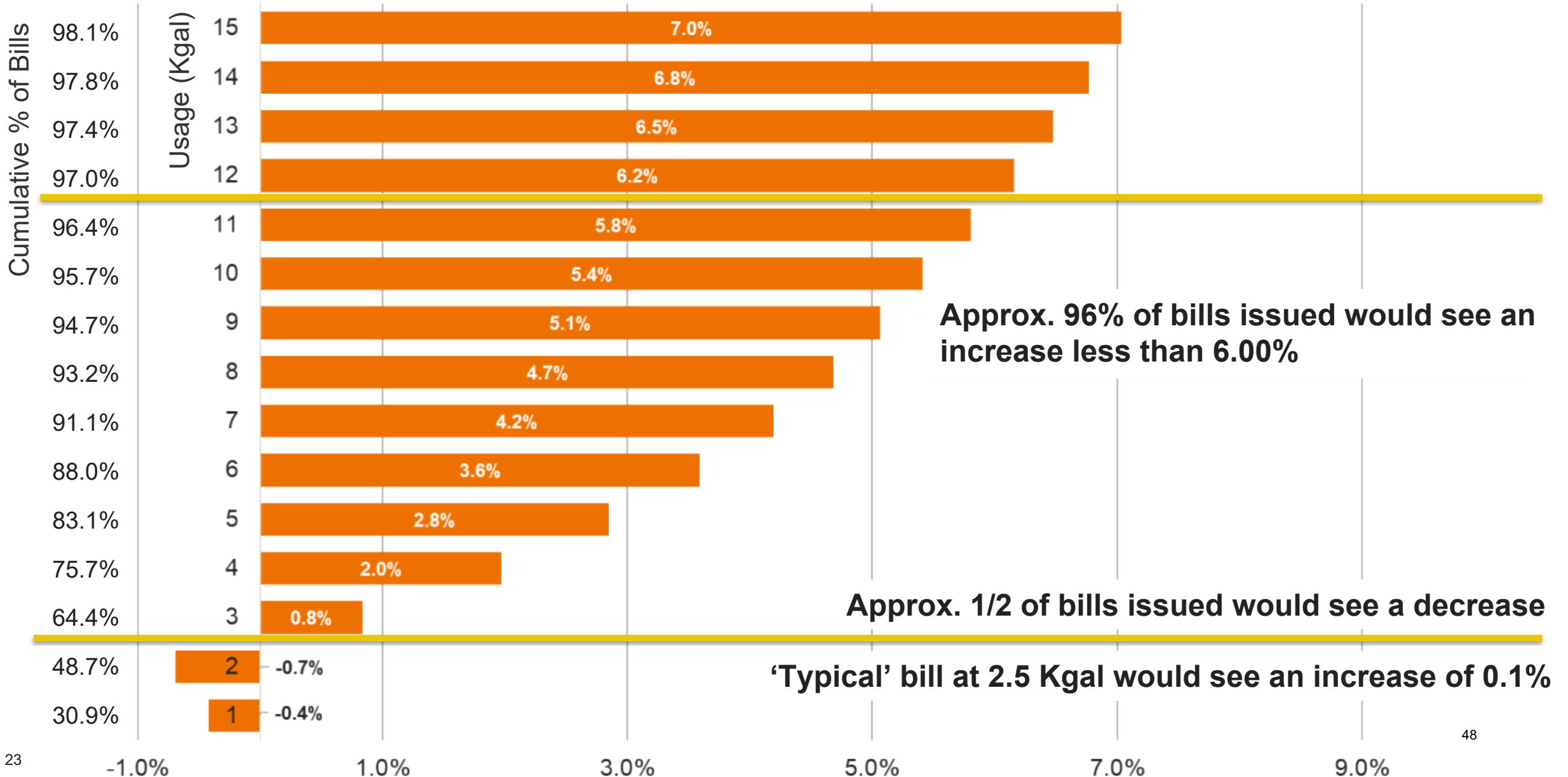
- No change to Fixed Charges
- Fixed Charge Rev Recovery = 47.0%

- Recover all 6.00% increase (once)





# Single Family Residential Bill Impacts: Scenario 2





# Rate Design Analysis – Key Takeaways

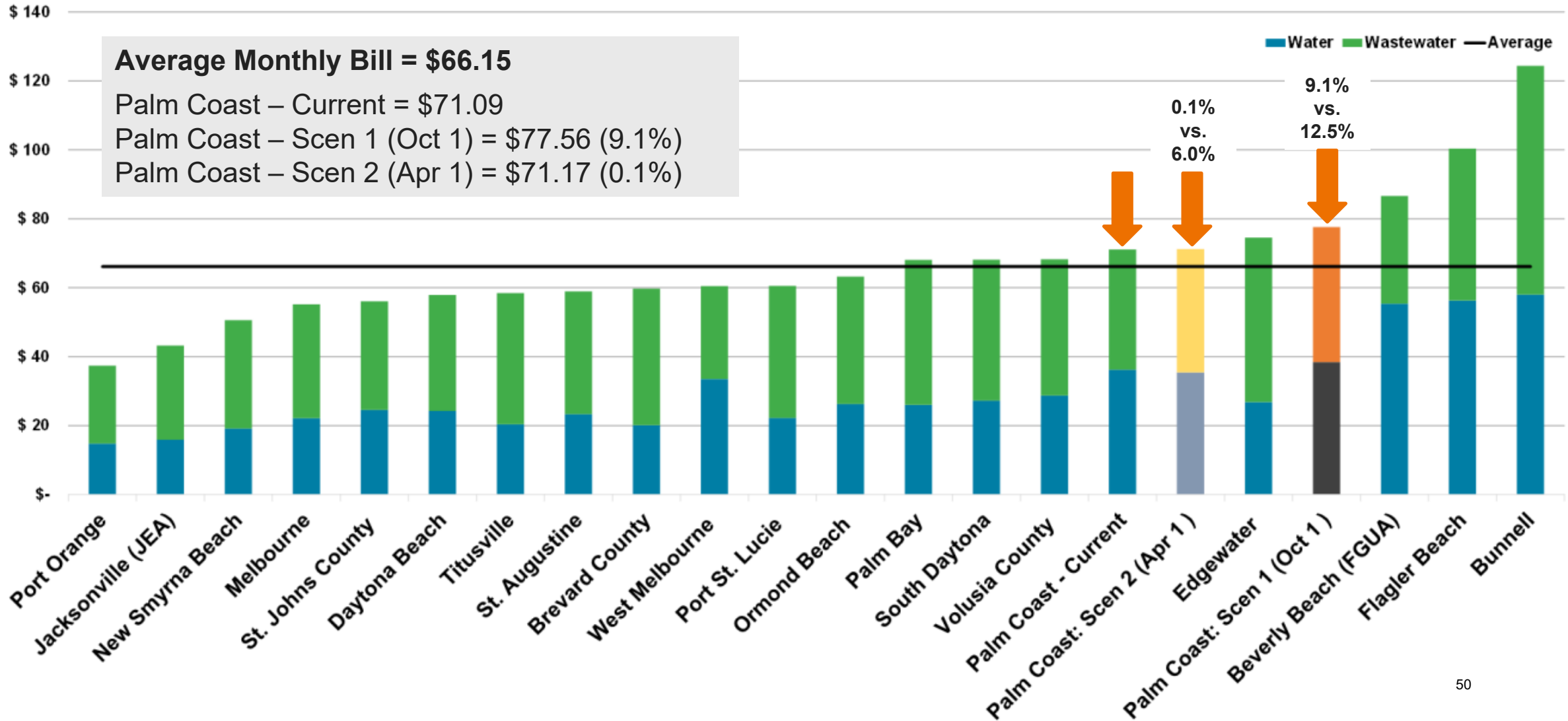
- Goals of recommended rate structure updates:
  - Mitigate bill impacts to fixed income / low water user
  - Promote water conservation
  - Ensure revenue stability is preserved
- Recommended solutions:
  - Add Lifeline Tier to Water Rates
  - Apply next increase to only Water / Wastewater Volume Charges
- Customer Bill Impacts:
  - Scenario 1 - Approx. 2/3 of bills issued would see an increase less than 12.50%
  - Scenario 2 - Approx. 96% of bills issued would see an increase less than 6.00%



# Local Water & Wastewater Monthly Bill Survey:

## Current Single-Family Residential Bills at 2,500 gallons per month

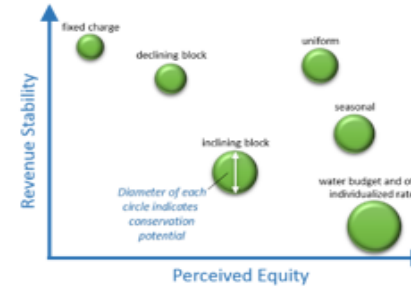
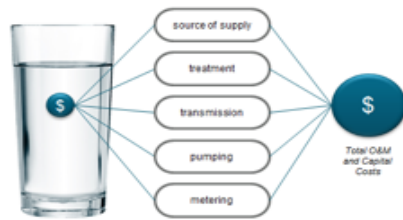
CITY OF PALM COAST, FLORIDA







# Best Practices to Ensure Sustainable & Equitable Rates



## Revenue Sufficiency

- Operating Costs
- Capital Costs
- Financial Policies
  - Debt Coverage
  - Reserves

## Cost Allocation

- Evaluate Available Data
- Identify Methodology
- Compare to Revenue

## Rate Design

- Evaluate Objectives
- Identify Structures
- Set Parameters
- Customer Impacts

## Capacity Fees

- Recover specific costs
- Growth pays for share of capital investments

Annually (Budget)

Update Every 3 to 5 Years Based on Changes in Costs, Usage Profiles, Development Patterns, Industry Practices, Legal Precedent, Technology, etc.



# Capacity Charges Analysis – Overview

## Contribution In Aid of Construction (CIAC) Fees

- One-time fees designed to recover cost of capacity to serve future growth
- Minimize cost burden to existing customers over time

$$\frac{\text{CAPACITY CHARGE} = (\text{Capital Costs} - \text{Credits})}{\text{Equivalent Residential Units}}$$

Methodology	Description	Appropriate For
Buy-In Method	Based on value of existing system	System with available capacity to serve growth
Incremental Cost Method	Based on cost of planned capital improvements	System with limited capacity and/or with much growth-related capital
Combined Method	Based on value of existing system & cost of planned capital improvements	System with available capacity and some growth-related capital



# Contribution In Aid of Construction (CIAC) Fees

## Full Cost Recovery Fees

### Water CIAC Fee Calculation

Plant in Service - Reconst. Cost New	\$	256,845,227
Expansion-Related Capital Costs	\$	102,823,402
Less: Outstanding Debt	\$	(49,155,406)
Less: Grants & Contributed Capital	\$	(1,673,458)
<b>Net System Investment</b>	<b>\$</b>	<b>308,839,766</b>

Net System Capacity (mgd)	13.20
Level of Service (gpd)	225
<b>Equivalent Residential Units</b>	<b>58,667</b>

<b>Calculated System CIAC Fee per ERC</b>	<b>\$</b>	<b>5,264</b>
Current CIAC Fee	\$	2,960
Dollar Change	\$	2,304
<b>Percent Change</b>		<b>78%</b>

### Sewer CIAC Fee Calculation

Plant in Service - Reconst. Cost New	\$	285,025,220
Expansion-Related Capital Costs	\$	143,979,857
Less: Outstanding Debt	\$	(49,155,406)
Less: Grants & Contributed Capital	\$	(10,784,427)
<b>Net System Investment</b>	<b>\$</b>	<b>369,065,244</b>

Net System Capacity (mgd)	10.10
Level of Service (gpd)	180
<b>Equivalent Residential Units</b>	<b>56,111</b>

<b>Calculated System CIAC Fee per ERC</b>	<b>\$</b>	<b>6,605</b>
Current CIAC Fee	\$	3,185
Dollar Change	\$	3,420
<b>Percent Change</b>		<b>107%</b>





# Contribution In Aid of Construction (CIAC) Fees

## Phase-In Limitations

- Recent Updates to Florida Impact Fee Law:
  - Caps any one-time total increase to 50% of current fee
  - Increases between 25% and 50% must be phased in over 4 equal increases

	Effective Date	Water CIAC	Sewer CIAC	Combined CIAC	Cumulative Increase
Current		\$ 2,960	\$ 3,185	\$ 6,145	
<b>FY 2025</b>	Nov 1, 2024	<b>\$ 3,330</b>	<b>\$ 3,583</b>	\$ 6,914	<b>12.50%</b>
<b>FY 2026</b>	Nov 1, 2025	<b>\$ 3,700</b>	<b>\$ 3,982</b>	\$ 7,682	<b>25.00%</b>
<b>FY 2027</b>	Nov 1, 2026	<b>\$ 4,070</b>	<b>\$ 4,380</b>	\$ 8,450	<b>37.50%</b>
<b>FY 2028</b>	Nov 1, 2027	<b>\$ 4,440</b>	<b>\$ 4,778</b>	\$ 9,218	<b>50.00%</b>



# Capacity Charges Analysis – Key Takeaways

## Contribution In Aid of Construction (CIAC) Fees

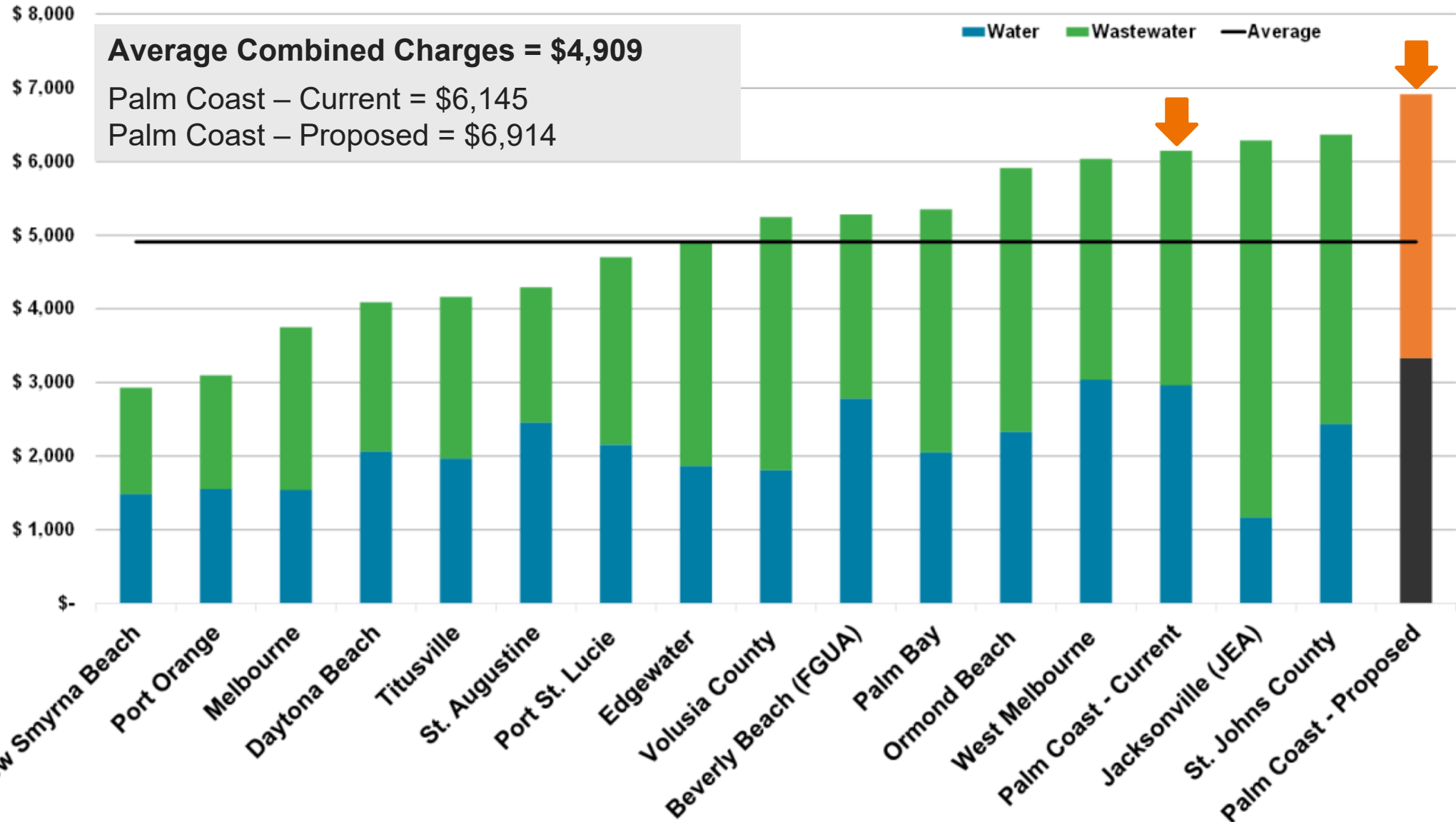
- One-time fees designed to recover cost of capacity to serve future growth
- Minimize cost burden to existing customers over time
- Recent Updates to Florida Impact Fee Law:
  - Caps any one-time total increase to 50% of current fee
  - Increases between 25% and 50% must be phased in over 4 equal increases

	Effective Date	Water CIAC	Sewer CIAC	Combined CIAC	Cumulative Increase
Current		\$ 2,960	\$ 3,185	\$ 6,145	
<b>FY 2025</b>	Nov 1, 2024	<b>\$ 3,330</b>	<b>\$ 3,583</b>	\$ 6,914	<b>12.50%</b>



# Local Water & Wastewater Capacity Charges Survey:

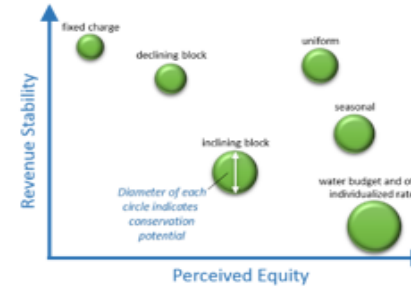
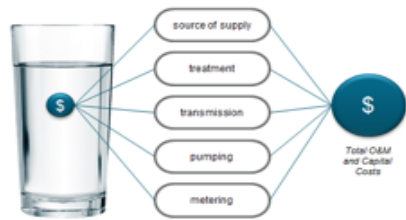
## Combined Charges per Equivalent Residential Unit







# Best Practices to Ensure Sustainable & Equitable Rates



## Revenue Sufficiency

- Operating Costs
- Capital Costs
- Financial Policies
  - Debt Coverage
  - Reserves

## Cost Allocation

- Evaluate Available Data
- Identify Methodology
- Compare to Revenue

## Rate Design

- Evaluate Objectives
- Identify Structures
- Set Parameters
- Customer Impacts

## Capacity Fees

- Recover specific costs
- Growth pays for share of capital investments

Update Annually per Budget Process

Update Every 3 to 5 Years Based on Changes in Costs, Usage Profiles, Development Patterns, Industry Practices, Legal Precedent, Technology, etc.



# In Conclusion: Revenue Sufficiency Analysis

**Staff is seeking Council direction:  
Adopt Scenario 1 or Scenario 2 rate plans?**

- Significant capital investment required to serve growth
- Indexing rates by US-CPI is not sufficient to fund capital needs
- Greater near-term increases are recommended:

	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Effective Date	<b>Apr 1, 2024</b>	<b>Oct 1, 2024</b>	Oct 1, 2025
<b>SCENARIO 1</b>	N/A	<b>12.50%</b>	<b>6.00%</b>
<b>SCENARIO 2</b>	<b>6.00%</b>	<b>6.00%</b>	<b>6.00%</b>



# In Conclusion: Rate Design Analysis

Staff is seeking Council direction:  
Implement rate structure updates during  
next utility rate increase?

## ➤ **Goals of recommended rate structure updates:**

- Mitigate bill impacts to fixed income / low water user
- Promote water conservation
- Ensure revenue stability is preserved

## ➤ **Recommended solutions:**

- Add Lifeline Tier to Water Rates
- Apply next increase to only Water / Wastewater Volume Charges

## ➤ **Customer Bill Impacts:**

- Scenario 1 - Approx. 2/3 of bills issued would see an increase less than 12.50%
- Scenario 2 - Approx. 96% of bills issued would see an increase less than 6.00%





# In Conclusion: Capacity Charges Analysis

**Staff is seeking Council direction:  
Increase CIAC Fees by 50% over 4 years?**

- One-time fees designed to recover cost of capacity to serve future growth
- Minimize cost burden to existing customers over time
- Recent Updates to Florida Impact Fee Law:
  - Caps any one-time total increase to 50% of current fee
  - Increases between 25% and 50% must be phased in over 4 equal increases

	Effective Date	Water CIAC	Sewer CIAC	Combined CIAC	Cumulative Increase
Current		\$ 2,960	\$ 3,185	\$ 6,145	
<b>FY 2025</b>	Nov 1, 2024	<b>\$ 3,330</b>	<b>\$ 3,583</b>	\$ 6,914	<b>12.50%</b>



# Questions & Discussion

**Eric Grau**

*Principal*

*eric.grau@stantec.com*

**Danica Katz**

*Consultant*

*danica.katz@stantec.com*

# City of Palm Coast, Florida Agenda Item

**Agenda Date:** November 14, 2023

<b>Department</b> CITY ADMINISTRATION <b>Division</b>	<b>Amount</b> <b>Account #</b>
<b>Subject:</b> PRESENTATION - ECONOMIC DEVELOPMENT OVERVIEW	
<b>Presenter:</b> Jason DeLorenzo, Chief of Staff	
<b>Attachments:</b> 1. Presentation	
<b>Background:</b>  <b>Council Priority:</b> <b>A. Strong Resilient Economy</b>  Staff will provide an overview of economic development efforts achieved during fiscal year 2023 including: <ul style="list-style-type: none"><li>• Business Retention &amp; Expansion</li><li>• Sites &amp; Buildings Development &amp; Readiness</li><li>• Business Recruitment &amp; Industry Sector Diversification</li><li>• Talent Development &amp; Attraction</li></ul>	
<b>Recommended Action:</b> <b>FOR PRESENTATION ONLY</b>	



# 2023 Economic Development Overview

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## **2024 Council Priority A3: Economic Development**

**Develop economic opportunity tools and communication strategies to support and sustain small businesses.**



## Defining Economic Development

- Increasing the inflow of wealth into the local economy
- Developing existing talent and recruiting new talent
- Creating new jobs and retaining existing jobs
- Recruiting new businesses and capital investment
- Retaining and helping existing businesses to expand
- Diversifying industry sectors and the tax revenue base for financial sustainability, security, and resiliency
- Improving the quality of life for citizens



## Focus Areas

1. Business Retention & Expansion
2. Sites & Buildings Development & Readiness
3. Business Recruitment & Industry Sector Diversification
4. Talent Development & Attraction





## Business Retention & Expansion

-  Meet with Existing Businesses
-  Conduct Business Industry Sector Analysis
-  Conduct Industry Conversations
- Conduct Business Survey
- Locate Funding Sources


## Business Recruitment & Industry Diversification

-  Create Website & Marketing Materials
- Identify & Validate New Targeted Industry Sectors 
-  Develop Business Incentives Program
-  Coordinate with Flagler County & Local Stakeholders
- Joint Promotion Campaign

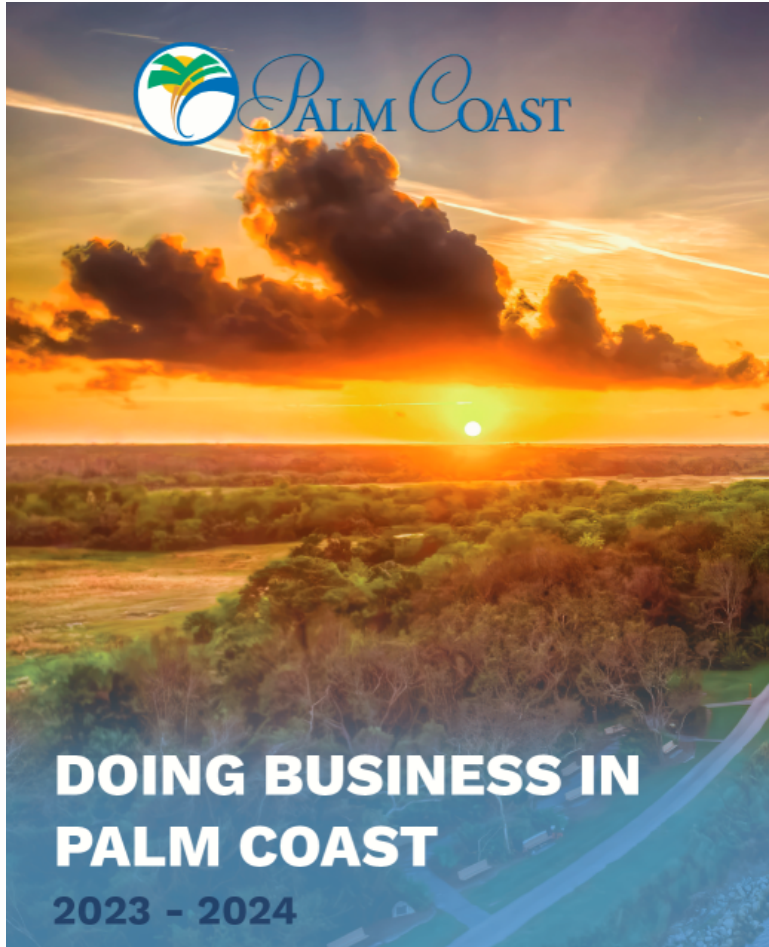
## Sites & Buildings Development

-  Identify Sites for Business Development
- Evaluate Current & Future Zoning/Uses 
- Locate Funding for Development Projects & Site Preparation

## Talent Development & Attraction

-  Collaborate with Higher Educational Institutions & Flagler County Public Schools
- Leverage Location Inside Florida's High-Tech Corridor





## WHY PALM COAST?

### AN ECONOMIC SNAPSHOT

The City of Palm Coast is the preferred location for your business. Located in Flagler County, one of Florida's top 10 fastest growing counties, Palm Coast couples an exceptional quality of life with a pro-business environment. New development opportunities are plentiful, with over 970 new businesses opening since January 2022.

The Palm Coast Office of Economic Development offers numerous complimentary services for existing business expansion projects and new business relocation. Several areas within the city are being developed for new commercial and industrial development to foster new business industry sector diversification and growth. Attractive incentives may be available for qualifying projects.

Florida ranks fourth for the best tax climate in the U.S. by the Tax Foundation, 2023 Tax Index. Low regulations, low cost of labor, excellent universities and colleges, talent workforce, and zero state income tax, provides a very cost competitive pro-business environment for your growth and success.

**POPULATION GROWTH**  
**2022: 96,504**  
**2030: 115,950**



**MEDIAN HOUSEHOLD INCOME**  
**\$60,648**



**MEDIAN HOUSE PRICE (3/2023)**  
**\$368,351**



**LOCAL BUSINESSES**  
**4,000+**



**OWNER OCCUPIED, HOUSING**  
**76% (2022)**



## HOW TO START A NEW BUSINESS IN PALM COAST

All businesses operating within the City of Palm Coast must obtain a Flagler County Business Tax Receipt. Once your Palm Coast Business Tax Receipt is issued, you may obtain/renew your Flagler County Business Tax Receipt.

All Home Based Businesses must obtain a Palm Coast Business Tax Receipt.

After completing steps 1-3 and 5-6 listed on page 10, visit the City of Palm Coast Business Tax Receipt website at <https://www.palmcoast.gov/business-tax>

For information and to download the Business Tax Receipt Application form, please visit [https://copc-strapi-production.s3.amazonaws.com/Local\\_Business\\_Tax\\_Receipt\\_PDF\\_46f18582cb.pdf](https://copc-strapi-production.s3.amazonaws.com/Local_Business_Tax_Receipt_PDF_46f18582cb.pdf)

Once the application is completed, you may either drop it off and submit payment in person to Business Tax Receipt office or you may email the form to [btr@palmcoast.gov](mailto:btr@palmcoast.gov). Once the form is received, a business tax receipt representative will contact you for payment. For questions, call the Palm Coast Business Tax Receipt office directly at 386-986-3766.

Businesses operating within the City of Palm Coast, but not located within the city, may be required to register their businesses and obtain a Business Tax Receipt. To register your business, you will need a copy of your current local business tax receipt where your business is located; city/county. If applicable, a copy of your Florida State license, certificate of insurance showing General Liability and Worker's Compensation coverage, or a State exemption form.

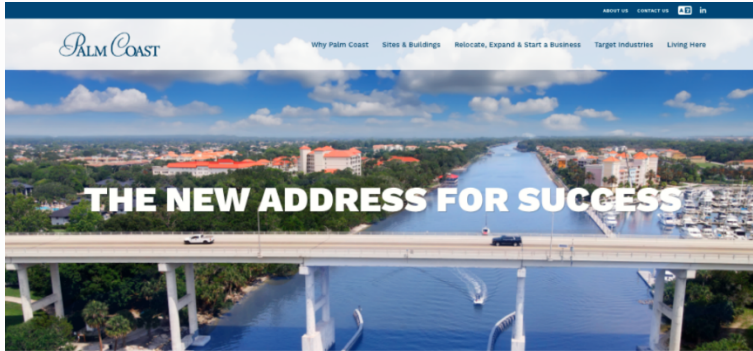
Businesses operating from newly constructed commercial locations in the City of Palm Coast, please attach your Certificate of Occupancy (obtained from the Building Department, 386-986-3780, with your Business Tax Receipt application.)

To view a digital version of our Business Resource Guide, please see the QR code located on page 3.










## THE NEW ADDRESS FOR SUCCESS

Choosing the right location is critical for any expanding, relocating, or start-up business. The City of Palm Coast offers a strong foundation for success, thanks to our strategic location on Northeast Florida's Atlantic Coast, superior business climate, and exceptional quality of life. It's an opportunity to place your business in a dynamic region in America's fastest-growing, business-friendly state.

### PALM COAST SNAPSHOT

Strategically located between Jacksonville and Daytona Beach

<b>5<sup>th</sup></b> Fastest growing city in Florida	<b>18<sup>th</sup></b> Fastest growing city in the U.S.	<b>#3</b> Fastest growing county in Florida (Flagler County)
<b>24<sup>th</sup></b> Largest city in Florida	<b>98,411</b> Population (2022)	<b>100,000+</b> Population estimated by end of 2024
<b>14.46%</b> Projected growth rate, with a population of 100,000 by 2027	<b>\$60,648</b> Median household income (2022)	<b>49.7</b> Years median age (2022)
<b>-3.1%</b> Lower cost of living than U.S. national average	<b>18.5</b> Million of cubic yards of trash with RecycleRight program (bins, curbside, drop-off) and 10,000 curbside jobs	



Source: U.S. Census Bureau, May 16, 2016; University of Florida Bureau of Economic Research Population Estimates & Projections

386-986-2380 CONTACT@DISCOVERPALMCOASTFL.COM

Why Palm Coast Sites & Buildings Relocate, Expand & Start a Business Target Industries Living Here About Us Contact Us

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### WHY PALM COAST

Palm Coast, Florida offers a compelling combination of business benefits and amenities. Our strategic location along Florida's northeast Atlantic coast provides access to major domestic and international transportation routes. We offer a decidedly pro-business environment – at the state, county, and local level – with a skilled and diverse workforce. The city is an attractive destination for businesses, their employees, and customers, too, thanks to our favorable climate, natural resources, and nearby access to some of Florida's most beautiful beaches.

#### Palm Coast Benefits

- Pro-business, cost-competitive environment.
- State-of-the-art, multi-gigabit fiber internet soon to be available throughout city.
- Florida's third-busiest Executive municipal airport with FTZ #64 designation.
- Strategic location between Jacksonville and Daytona Beach.
- Dynamic city with a growing population that is projected to increase its land mass size by 10,000 acres within the next 10 years.
- Skilled and educated workforce.
- Excellent quality of life.
- Perfect climate for year-round recreation.
- Family-friendly communities and amenities.
- Award-winning city leadership and services.
- Expedited permitting process.



#### A Prime Location Within the Florida High Tech Corridor

Palm Coast is located 30 miles north of Daytona Beach, 60 miles south of Jacksonville, and 90 miles northeast of Orlando, with convenient access to international airports such as Daytona Beach International Airport, Jacksonville International Airport, and Orlando International Airport.

We are the 5th fastest growing city in Florida and one of only two northeast Florida counties within the Florida High Tech Corridor, which is ranked as the 4th largest "hot spot" for each job in the U.S. The Corridor's mission is to grow high tech industries and innovation through partnerships that support research, entrepreneurship, and workforce development.

The Corridor stretches across 23 counties and is known as a collaborative network that includes Florida's universities and stakeholders supporting companies in the aerospace and aviation, agrotechnology, IT, life sciences and medical technologies, and modeling, simulation, and training industry sectors.

#### Highways & Mileage in Palm Coast

Interstate 95: 18.5 miles -- 74,000 trips daily and 3 interchanges.  
U.S. HWY 1: 18 miles

#### OTHER INTERSTATE ACCESS

I-295: 58 miles  
I-10: 72 miles  
I-4: 29 miles

## RELOCATE, EXPAND & START A BUSINESS

Learn more about the benefits, business environment, incentives, and process for locating your business in Palm Coast.

[BUSINESS RESOURCE GUIDE](#)



#### BUSINESS ENVIRONMENT

[LEARN MORE](#)

#### RELOCATE & START YOUR BUSINESS IN PALM COAST

[LEARN MORE](#)



#### WORKFORCE & LABOR SHED

[LEARN MORE](#)



#### CONNECTIVITY, UTILITIES & INFRASTRUCTURE

[LEARN MORE](#)



#### TRANSPORTATION INFRASTRUCTURE

[LEARN MORE](#)



## Staff Interactions

- Met with 32 existing businesses
- Met with 19 new businesses
- Conducted 2 relocation site visits
- Spoke with 10 commercial and industrial development companies



## Relocation Requests for Information

Received 24 RFI's for companies looking to move to Palm Coast

- 9 of which we submitted responses that met all required criteria
- 12 required existing space/buildings
  - 10 of which we did not have suitable space/buildings
  - Sizes ranged from 16,000 sq. ft to 680,000 sq. ft.
  - \$57,000,000 in potential investment
  - \$12,750,000 annual estimated potential lost wages
- 3 we passed on as not a good fit for the community

## Potential Industrial Sites

- Identified private parcels with industrial development potential
- Received permission to market several parcels
  - Multiple sites in Palm Coast Park DRI east of US1 (Optimum)
  - Old Kings Road South of 100 adjacent to I-95 (Bulow Creek)

## Palm Coast Park Tract 17

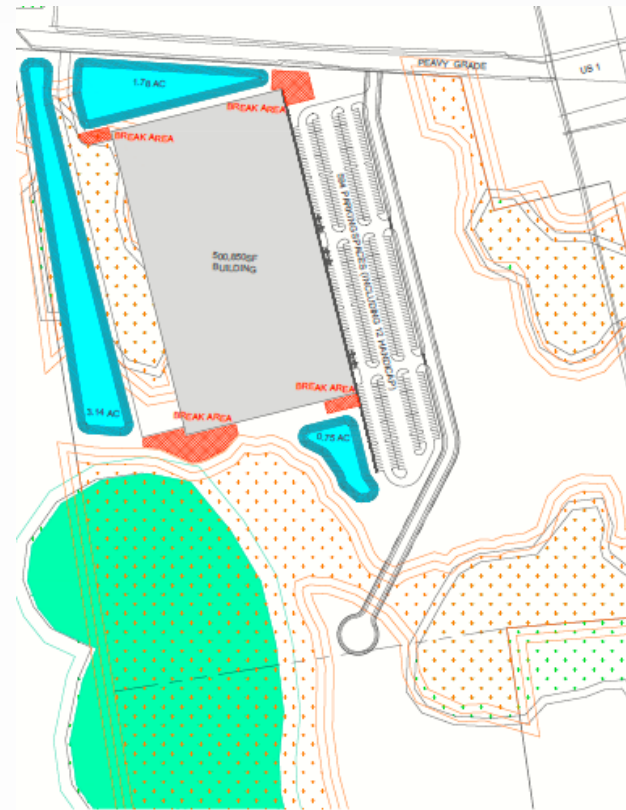


- Selected for inclusion in FP&L First Sites program
- Only ten Florida sites selected
- Will be marketed to site selectors by FP&L

“Florida First Sites is the first regional site certification program in the State of Florida to develop project-ready industrial sites. Each site undergoes a rigorous screening process developed by Quest Site Solutions, offering an objective, third-party analysis to ensure the sites are ready for development.”

# Palm Coast Park Tract 17

- Prepared several conceptual site layouts
- Completed a Phase 1 environmental assessment
- Geotechnical survey produced



CITY OF PALM COAST  
PLANNING DEPARTMENT  
160 LAKE AVENUE

PALM COA  
TRACT 17



CITY OF PALM COAST  
PLANNING DEPARTMENT  
160 LAKE AVENUE

PALM COAST I  
TRACT 17  
CITY OF PALM





## Healthcare and Higher Education

- Engaged Daytona State College, Jacksonville University, and University of Florida and received updates about their student enrollment and future programs and expansion plans in Palm Coast.
- Hosted a site visit of a Healthcare Real Estate Development company interested in Palm Coast for their portfolio of healthcare companies looking for new market opportunities.
- Targeted Feasibility Study underway.



## Imagine 2050

### Future Land Use Element

“Economic and business development to provide a proper balance of jobs, shopping opportunities, and tax base”



# Our Partners in Economic Stability



Hosted by




UNIVERSITY OF  
CENTRAL FLORIDA



**NORTHEAST FLORIDA  
REGIONAL COUNCIL**



## **Business Retention & Expansion**

- 
- Increase Business Resources
  - Create an Entrepreneurial Environment; Business Incubator, & Shared Commercial Kitchen
  - Implement a SWAM Program

## **Business Recruitment & Marketing**

- Conduct Healthcare Services & Training & Complimentary Targeted Sector Feasibility Study
- Host Healthcare Services Task Force Summit
- Host EFI Project Managers Visit
- Implement Foreign Direct Investment Recruitment

## **Sites & Buildings Development**

- Foster the Establishment of New Business Park
- Establish Industrial Development Authority
- Begin Zoning/Use Changes

## **Talent Development & Attraction**

- Identify Key Industries for Growth and Create a Center of Excellence
- Begin a Talent Ambassador Program



QUESTIONS?

# City of Palm Coast, Florida Agenda Item

**Agenda Date:** November 14, 2023

<b>Department</b>	COMMUNITY DEVELOPMENT	<b>Amount</b>
<b>Division</b>	CODE ENFORCEMENT	<b>Account #</b>
<b>Subject:</b> PRESENTATION - COMMUNITY CATS		
<b>Presenter:</b> Eva Rodriguez, Code Enforcement Technician III, Heather Priestap, Animal Control Officer, and Barbara Grossman, Code Enforcement Manager		
<b>Attachments:</b> 1. Presentation		
<b>Background:</b> City Council requested a presentation at their July 11, 2023, workshop on the topic of Community Cats. Staff will provide a presentation on the topic.		
<b>Recommended Action:</b> <b>FOR PRESENTATION ONLY</b>		



# City of Palm Coast Community Cats

Presented By: Eva Rodriguez, Code Enforcement Technician III and  
Heather Priestap, Animal Control Officer

# Topics to Discuss

- Challenges with Free Roaming Cats
- Challenges with Trap & Remove
- Community Cat Programs
- Myths versus Facts
- Benefits to a Community Cat Program
- Community Caretaker Guidelines





# What is a Community Cat Program?



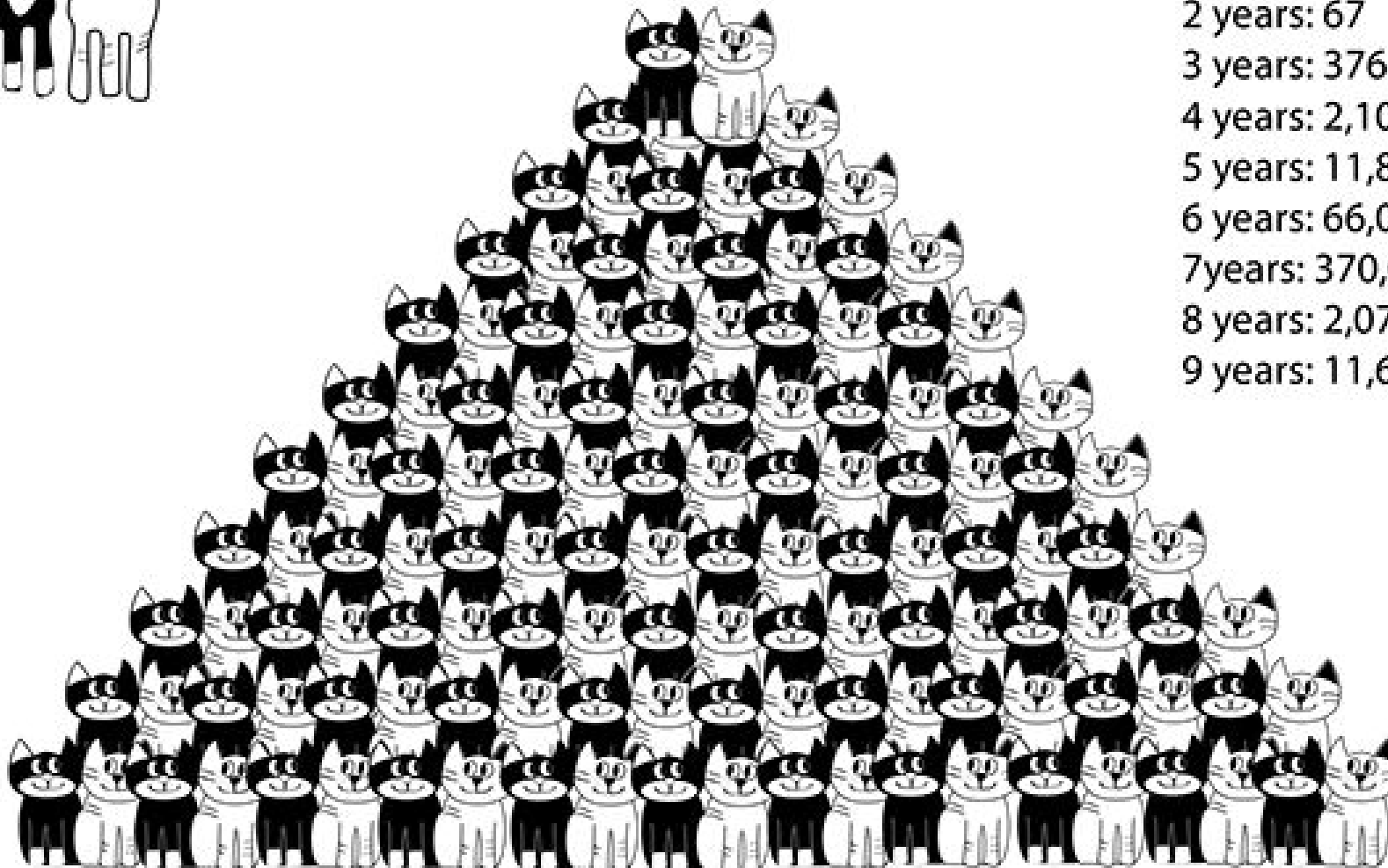
- Feral, stray, discarded, abandoned cats
- Volunteers/Caretakers
- Spay and neuter (reduces population)
- Rabies vaccination
- Ear notch/tipping (for identification)
- Return home to caretaker



# Challenges with Free Roaming Cats

An unspayed female cat, her mate and all of their offspring, producing 2 litters per year, with 2.8 surviving kittens per litter can total:

1 year: 12  
2 years: 67  
3 years: 376  
4 years: 2,107  
5 years: 11,801  
6 years: 66,088  
7 years: 370,092  
8 years: 2,072,514  
9 years: 11,606,077



- Conjugate in groups called “Colonies”
- Produce offspring at astronomical rates
- Create nuisance conditions, such as fighting, mating, and spraying

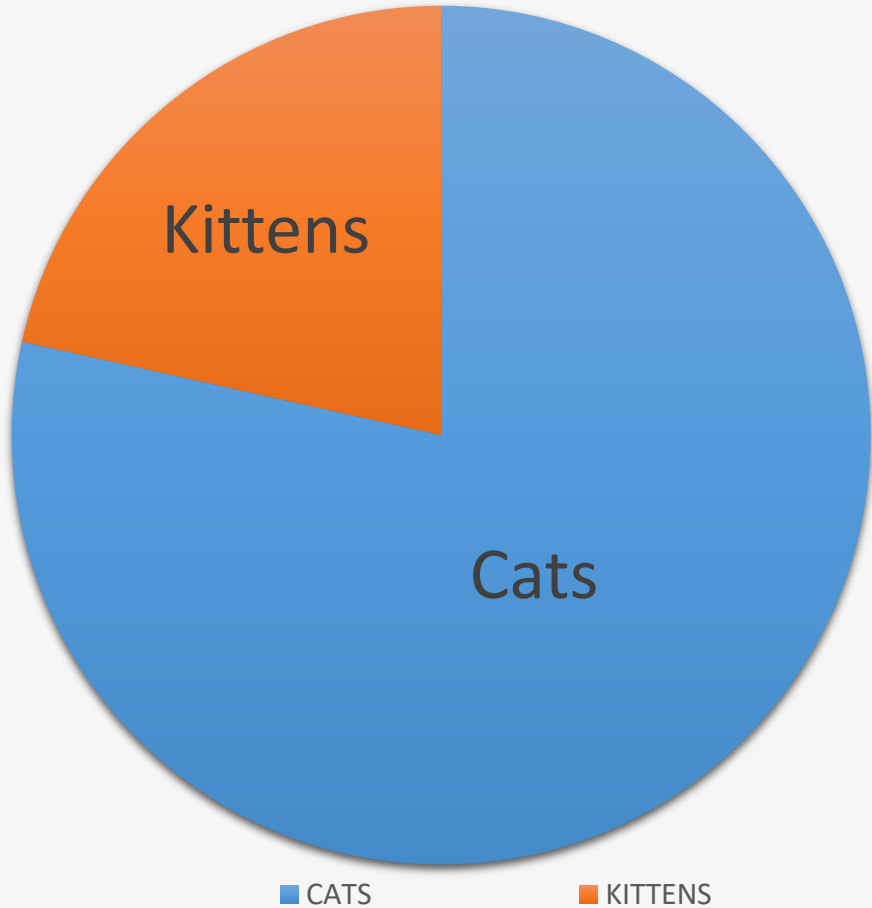
# Challenges with Trap & Remove

- Cats trapped, removed, shelter
- New unaltered cats enter area
- Cats reproduce; colony reestablishes
- Never ending Cycle “Vacuum effect” (new cats arrive take advantage of vacated food, shelter, and reproduce)
- Too many cats, too few animal control officers
- Trap and remove policies have failed for decades





# Palm Coast Intake



Cats	511
Kittens	140
TNR	119
Adopted	458
Euthanized	35

18.28%  
TNR





# Why a Community Cats Program?

	<b>Community Cat Program</b>	<b>Trap and Remove</b>
<b>Euthanasia</b>	Lowers euthanasia	High euthanasia
<b>Population</b>	Lowers population	Population continues to grow & new cats fill vacancy
<b>Vaccinations</b>	Rabies vaccination, healthier cat population/community	None
<b>Wildlife impact</b>	Less impact on wildlife	High impact on wildlife
<b>Cost/Intake volume to FHS</b>	Lowers intakes and cost to the City	High intake/overcrowding at the Flagler Humane Society (FHS) and high cost

# Benefits to a Community Cat Program

- Successful Program
- Cats-Trapped and sterilized
- Cats-Ear Tipped
- Adoptable Cats-Removed
- Unadoptable Cats-Returned
- Caretaker-Feeds and Monitors
- Reproduction colony-Reduced & eliminated in 4 to 7 years



# Additional Benefits to a Community Cat Program continued



## **Reduces Nuisance Behavior:**

- Noise from mating is eliminated
- Odor from unneutered male cats
- Sterilized cats roam less
- Property damage / unsanitary conditions

## **Saves Resources:**

- TNR cost half that of trap and euthanize
- Volunteers provide labor (trapping, transport, etc.)
- Nonprofits and private donations to assist with cost

# Community Cat Caretaker Guidelines

Caretaker will commit to:

- caring and maintaining
- registering
- feeding
- sterilizing and vaccinating



- removing sick
- providing proof of sterilization, vaccinations, medical

Animal Control will have the

Right to seize and remove colony for:

- public health and safety
- complaints



# Caretakers Guidelines for feeding

## TRAP/NEUTER/RETURN (TNR) COLONY MAINTENANCE PROCEDURES

1. Trap the cat (**make sure that a spay/neuter clinic appointment has been made prior to trapping**)
  2. Take to assigned spay/neuter clinic as soon as possible after trapping.  
**Note: Follow TNR Instructions for after surgery care.**
  3. Spay or Neuter and Vaccinate for Rabies and Distemper and Ear Tip  
**Note: The cat's ear will be tipped for identification (using Alley Cat Allies method) so if it is taken to a shelter the cat will be returned to the area where it was picked up.**  
**All cats returned to the colony or are inside/outside cats must be ear tipped – no exceptions.**
  4. Set-up feeding location and/or feeding station on your property or where permission has been obtained from property owner.
  5. **Notes for residential colonies:**
    - a) Cats should be fed in the morning if possible. If feeding in the evening make sure that it is before dark and all food and bowls remaining after feeding are removed.  
**Note: Feeding at night and not removing dishes and food after cats have eaten will draw raccoons and coyotes – both will kill the cats to get to the food and the coyotes will eat the cats.**
    - b) No plates, dishes, or food containers of any kind should be left outdoors after cats have been fed.
    - c) Neighbors rights should be respected so feeding should be in a discreet area of the yard and not on property lines.
  6. **NO TRASH SHOULD OF ANY KIND SHOULD EVER BE LEFT AT THE FEEDING AREA – RESIDENTIAL OR COMMERCIAL!**
    - a) All trash or old food should be disposed in a proper container and not left at the feeding site.
  7. If using any type of pesticide or pest deterrent you need only apply during the months of May through October to prevent ants and fleas from infesting the area as long as you follow manufacturer directions and make sure it is **safe for cats** and other animals.
  8. **Cat colonies need to be monitored every day for new cats, kittens, sick or injured cats.**  
**Note:** New cats that have been dropped at the colony should be trapped and fixed and returned to the colony.  
**Note:** Kittens should be removed from mother as young as 5 weeks old if eating wet food and placed with foster or rescue for adoption. All kittens must be fixed thru TNR Program by age of 16 weeks. Kittens that are adopted to inside homes must be microchipped at no cost to City. Outside or inside/outside cats and kittens must be ear tipped.  
**Note: Female kittens can become pregnant at 4 months old and male kittens can mate at 4 months old.**  
**Note:** Sick and injured cats need to be trapped and provided with veterinary care as soon as possible as cats should never be allowed to suffer.  
**Note:** Feeding and not fixing is not permitted.
  9. Communication between program administrators, animal control, coordinators, caretakers, trappers and veterinary clinics is the key to success for any TNR program.
- Note: **CLEANING THE TRAPS:**  
Clean traps with a soap solution and disinfect them with a solution of 1 part bleach to 30 parts water. 92  
Allow solution to dry, **then rinse it off thoroughly as bleach residue is harmful to cats.**



# Myth versus Fact

**Myth:** Feral cats have a harsh life.

**Fact:**

- Fed by kind people
- Average life 10 yrs.
- Leukemia and FIV rate in feral cats vs. owned cats-no higher.

**Myth:** Feral Cats are the cause of wildlife decline.

**Fact:**

Humans are the number one threat to wildlife, not feral cats.

**Myth:** Feral cats carry diseases such as rabies.

**Fact:**

- Occasionally.
- Rabies treatment for rabies in humans nearly 100 percent effective.
- TNR programs vaccinate feral cats.



# Myth versus Fact

**Myth:** TNR leads to nuisance complaints.

**Fact:**

- A well-run TNR program generally reduces nuisance complaints-majority of the time dramatically

**Myth:** TNR doesn't work.

**Fact:**

- Two ways to reduce and eliminate
  - Intensive TNR
  - Intensive eradication efforts

**Myth:** Residents are opposed to TNR.

**Fact:**

2014 national survey 68% preferred TNR over lethal injection. 2017 survey 72% supported TNR, compared to 18% favored lethal injection.



# SOURCES

- Alley Cats
- Best Friends Animal Society
- City of Palm Coast Animal Control
- Community Cats of Palm Coast
- Concerned Citizens For Animal Welfare
- Flagler Humane Society
- Florida Fish & Wildlife Conservation Commission
- Frontiers in Veterinary Science
- Operation Catnip
- University of Florida





# QUESTIONS?

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# City of Palm Coast, Florida Agenda Item

**Agenda Date:** November 14, 2023

<b>Department</b>	COMMUNITY DEVELOPMENT	<b>Amount</b>
<b>Division</b>	PLANNING	<b>Account #</b>
<b>Subject:</b> PRESENTATION - SIGN CODE AMENDMENT		
<b>Presenter:</b> Estelle Lens, AICP, Planner		
<b>Attachments:</b> <ol style="list-style-type: none"><li>1. Presentation, City Attorney</li><li>2. Presentation, Staff</li><li>3. Draft Ordinance</li><li>4. Temporary Sign Chart</li><li>5. Document from Flagler County Association of Realtors (FCAR)</li><li>6. Public Correspondence Email</li></ol>		
<b>Background:</b> <p>Chapter 12 of the Land Development Code – SIGNS AND ADVERTISING - was adopted along with the balance of the Unified Land Development Code (LDC) in August 2008. It has been amended twice, once in 2009 and again in 2012. These amendments were made working with stakeholders to provide more flexibility for applicants in the development community. The sign code is being amended now to comply with changes in the law, address challenges and make the code less restrictive, more business friendly and more community friendly.</p> <p>The Assistant City Attorney has provided the following as a background for the required and proposed changes to the City's sign code:</p> <p>The U.S. Supreme Court changed the face of sign regulation by local governments in the case of <i>Reed v. Gilbert</i>, a unanimous decision. In the opinion of most experts, the decision requires amendments to almost all local government codes, including the City of Palm Coast's code. The Supreme Court held that Gilbert's sign restrictions were content based unconstitutional regulations of speech that did not survive the highest level of scrutiny that the Court applies. The Town of Gilbert, Arizona sign code required permits for signs which allowed a number of exemptions such as:</p> <ul style="list-style-type: none"><li>• Political signs were permitted up to 32 square feet.</li><li>• Temporary directional signs were only permitted up to 6 square feet.</li><li>• Ideological signs were allowed up to only 20 square feet.</li></ul> <p>A local church was cited for violation of the rules for temporary directional signs and then challenged the sign code for violating their First Amendment rights. The Town argued (and the lower courts agreed) that the challenged regulations were content neutral, and that the sign distinctions were based on objective factors and not the expressive content of the sign.</p>		

The distinctions did not favor nor censor a particular viewpoint or philosophy. And the justification for the regulation was unrelated to the content of the sign.

Justice Thomas, writing for the Supreme Court, disagreed. He found the distinctions plainly content based and therefore subject to strict scrutiny. The various type of sign distinctions “depended entirely on the communicative content of the sign”. The Court articulated the “need to read” standard, meaning if a code enforcement officer has to read the sign to determine if a sign regulation applies to it, then the provision will be stricken as unconstitutional. This was true despite the fact that it was evident to the Court that the Town had benign motives in creating these sign categories. Put another way, the Court struck the Gilbert code because a particular sign was treated differently based on the purpose of the sign, instead of on its size, shape, location, or other content neutral time, place and manner regulation.

The Town attempted to address the strict scrutiny standard by offering two governmental interests to support its distinctions: aesthetic appeal and traffic safety. The Court held that even if these distinctions were compelling governmental interests, the regulations were not narrowly tailored. Justice Kagan noted in her own opinion (concurring in the judgment only) that the Town’s distinctions did “not pass strict scrutiny, or intermediate scrutiny, or even the laugh test.” The Court required the Town of Gilbert to pay Reed’s attorneys’ fees to the tune of \$800,000.

Because the Court found the sign code to have content-based regulations, the regulations were required to pass the “strict scrutiny” standard, and they failed. Most codes do, because “strict scrutiny” is described as being just like a civil war stomach wound. The Court even stated that directional signs could only potentially be considered a lawful sign category if sufficiently valid reasons for allowing them could be articulated by the city. Sign codes are being constitutionally contested throughout the court based on the “characterization” of signs (i.e. church signs; gas station signs; political signs).

The Court attempted to reassure local governments that sign codes could withstand scrutiny if cities and counties limit regulation to regulation of size, building materials, lighting, moving parts, and portability, if done in an even-handed manner. The Court recently found that regulation based on location was a valid way to regulate signs, so that banning off-site signs is not a content-based regulation.

Based on the *Reed* analysis, time restrictions on temporary signs must be carefully evaluated. For example, temporary signs cannot be severely limited in number or duration, because that regulation would unlawfully impact political and real estate signs.

*Reed* shows the degree to which courts will now scrutinize a city’s efforts to regulate signs and how those regulations impact free speech. Any code provisions in the City code that might show content bias must be amended to remove those distinctions. Cities are left, in the wake of *Reed*, with being forced to err on the side of allowing for less restrictive, rather than more restrictive, sign regulations, until the courts provide more guidance on these matters.

However, *Reed* did not explicitly overrule prior Supreme Court precedent allowing off site and on-site signs to be treated differently or permitting commercial signs to be regulated more strictly than non-commercial signs, as demonstrated in the case involving the City of Austin recently decided by the U.S. Supreme Court, which upheld Austin’s distinction between “on-site” and “off-site” signs. Another bright note is that it appears that so far cities still have the

ability to choose the content of “government” signs on their own property and in the rights of way. Plus, lower courts have limited Reed’s application to temporary signs only.

In conclusion, it behooves the City to amend its sign code or the City will be vulnerable to a challenge. If contested on constitutional grounds and the City loses, the sign code becomes void.

Another case impacting sign codes is *Sweet Sage Café, LLC v. Town of North Redington Beach* a case from the Middle District of Florida, Tampa Division. In this case, the United States District Court ruled that the town’s ordinance infringed on the right of free speech protected by the U.S. Constitution. Specifically, the Court ruled that the ordinance was facially unconstitutional because it regulated based on content of the speech and could not survive the strict scrutiny test. As a result, the town’s sign code was voided by the Court utilizing the precedent in the *Reed v. Town of Gilbert* case. The attorney for Sweet Sage Café subsequently filed suit in federal court asking for legal fees.

Considering these factors, Staff and the Assistant City Attorney met with the Flagler County Association of Responsible Developers (FCARD) nine times to hammer out these sign code amendments several years ago. Subsequently, in August and September of this year, City Staff met two times with other stakeholders to help modify these amendments. The stakeholders at the meetings this year included members from the Flagler County Association of Realtors (FCAR) and the Palm Coast-Flagler Regional Chamber of Commerce, local attorneys, and FCARD.

The substantive changes to the sign code are primarily as follows:

- Revising Purpose & Intent to reflect new findings on signage.
- Revising Exempt and Prohibited Signs, exempting temporary signs from permitting
- Correcting glitches.
- Deleting content-based definitions and replacing with new location-based qualifiers.
- Government signs are no longer regulated by the City sign code, in keeping with case law.
- Revising Temporary Signs, to genericize the categories. Signs are regulated based upon the zoning district in which the sign is placed. Simplified categories of temporary signs by providing a table. Generally, signs that are currently permitted will remain permitted, and signs that are currently prohibited will remain prohibited.
- Revising Glossary for commercial and temporary signage.
- The text of the regulations are outlined in the attached draft Ordinance in cross-out and underline format.

The amendments do not modify the amount or type of site or wall signage for commercial uses. Also, the regulation regarding Commercial banners is not modified.

**Recommended Action:  
FOR PRESENTATION ONLY**



## **You Really “Need to Read” Reed**

Catherine Reischmann  
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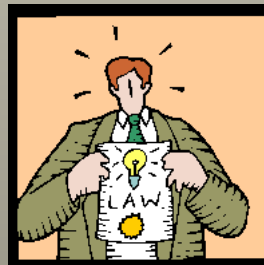
# Basis of Zoning Power and Limitations

- “Police Power”

Permissible basis for zoning: i.e. traffic, congestion, property values, nuisance

- The Fifth Amendment of the U.S. Constitution Places Limits

“After all, if a policeman must know the Constitution, then why not a planner?” *Brennan Dissenting, San Diego Gas and Electric Co. v. City of San Diego*, 101 S. Ct. 1287 (1981).



# When a regulation involves the First Amendment...

- Enhanced judicial scrutiny.
- Not presumed constitutional.



## First Amendment

**Governments “shall make no law** respecting an establishment of religion, or prohibiting the free exercise thereof; or **abridging the freedom of speech**, or of the press; or the right of the people peaceably to assemble, **and to petition the Government for a redress of grievances.”**

Unlike oral speech, signs take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. For these reasons, it is accepted that governments may regulate the physical characteristics and locations of signs.



## Sign Regulation: Justification/Evidence

- Preambles important – List any past litigation, point to Clearwater pictures of transformation, Comprehensive Plan policies.
- Ensure all codes contain a strong well-articulated purpose provision, and include blight prevention, economic development, place making, design creativity, prevention of clutter, protection of property values, encouragement of free speech, democracy, and scenic view protection.
- Include studies and data in the findings section, including traffic safety studies.



# Before Sign Regulation



Clearwater, Florida

## After Sign Regulation



Clearwater, Florida

# Sign Regulations

Per U.S. S. Ct., regulations of signs are usually acceptable if:

- No reference to the content of the signs (i.e., content neutral);
- Narrowly tailored to serve a significant governmental interest; and
- Leave open ample alternative channels for communication of the information.



# Content-Based Regulations

- Normally, any time government makes distinctions based on the “content” of the regulated speech, courts will apply a very demanding analysis, known as “strict scrutiny.”
- **What is content-based regulation of speech?** According to Reed:  
*Do you have to read the message to determine whether the rule applies?* If so, content-based. The “need to read” rule adopted by Reed.  
*Examples:* Identifying “for sale,” “directional,” “identification,” “grand opening,” or “stop” signs in your code.







Justice Thomas



Justice Alito



Justice Roberts



Justice Scalia



Justice Kennedy

## Reed vs. Town of Gilbert - Unanimous



Justice Breyer



Justice Kagan



Justice Ginsburg



Justice Sotomayer



## Religious Signs and Free Speech

- The Supreme court decided in [Reed v. Town of Gilbert, Ariz](#), that Town of Gilbert's ordinance that placed different limits on political, ideological and directional signs violated the First Amendment.
- The Justices agreed on the bottom line but not the rationale. Six Justices said the ordinance was subject to strict scrutiny, and that it could not survive it. Three justices agreed that the ordinance must fall but said the legal principles announced by the majority were too sweeping, endangering many reasonable sign ordinances.



# Maximum Sign Sizes

Homeowners Association signs

Political signs (nonresidential zone)

Note: Gilbert was subject to a state law requiring that it allow larger political signs in ROW

Ideological signs

Note: actually a permanent sign type, limited in number, and not allowed in ROW

Qualifying Event signs

Note: allowed in multiple numbers in ROW

The Town's Code  
(Per Reed's Counsel)

## Reed Decision Facts/Holding

- First Supreme Court decision on sign law for over 20 years.
- Town of Gilbert prohibited outdoor signs without a permit except for 23 categories with varying standards.
- The Town offered justifications of aesthetics and traffic safety but that means the Code's distinctions (allowing larger election signs for example) are "highly underinclusive".

- Gilbert's distinctions do not pass strict scrutiny, intermediate scrutiny, or the laugh test
- The Town offered no coherent justification for restricting the size of directional signs to 6 square feet while allowing other signs to reach 20 square feet.
- The city said directional signs “need to be smaller because they need to guide travelers along a route”.







# Key Quotes Showing Ruling Has Broad Impacts

- Event Signs - Court struck down the “event based” provisions as content based. “A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea.”



- Regarding Warning Signs - “An ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers and passengers—e.g., warning signs marking hazards on private property or signs directing traffic-MIGHT also survive strict scrutiny”.



➤ Apparently, court agreed Government can still make distinctions:

1. Commercial vs. noncommercial



VS



2. Temporary vs. Permanent



VS




- Consequence of the Confusing Broad Decision: “Our communities will find themselves in an unenviable bind: they will have to either repeal the exemptions that allow for helpful signs on streets and sidewalks, or else lift their sign restrictions altogether and resign themselves to the resulting clutter”.



# Important Points from Reed

1. Anyone (including candidate for office or billboard company) can bring a facial challenge to the code, and recover attorneys' fees. For this reason, a local government should amend its code before it is sued.

  
**CITY OF PLEASANTON CODE ENFORCEMENT**  
**COMPLAINT INFORMATION FORM**

**INSTRUCTIONS ON HOW TO FILE A COMPLAINT**

1. Describe and identify the specific complaint.
2. Give your name, address, and telephone number (this information is for staff and is kept confidential).
3. Give the exact location of the problem.
  - a. Street address with house number.
  - b. If no address, location of property, i.e., northwest corner of Main and Neal Street.
4. Give specific description and details of complaint, such as type of debris, vehicle license number, etc.
5. Send completed form to Code Enforcement either by saving and then email to [codeenforcement@pleasanton.ca.gov](mailto:codeenforcement@pleasanton.ca.gov) or by printing and then fax to 925-801-5463.

Complaints are usually handled in the order received. It may take one to two weeks before an inspection is conducted. Health and safety issues take precedence over all other complaints and are investigated as soon as possible, usually within a day or two of the complaint. Creating a violation may take up to 90 or 120 days, however with voluntary action on the part of the violator, this time could be reduced to 15 days or less.

LOCATION OF COMPLAINT: \_\_\_\_\_

COMPLAINT: \_\_\_\_\_

NAME OF COMPLAINANT: \_\_\_\_\_ HIM PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ WK PHONE: \_\_\_\_\_

CONTACT REQUESTED: yes  no

DATE OF COMPLAINT: \_\_\_\_\_ TIME: \_\_\_\_\_  AM  PM

-----  
(City Staff Use)

CEO Action: Inspect: \_\_\_\_\_ Letter or Personal Contact: \_\_\_\_\_

Warning: \_\_\_\_\_ Citel: \_\_\_\_\_ Abated: \_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_





## Important Points from Reed Cont'd

- KEY: Do not require that additional temporary signage be used for the purpose it is designed for. (Example: Allow small sign by door and expect it to be used for address but don't require it). Only possible exception: commercial temporary real-estate signs.





3. Enforcement: Selective enforcement can give rise to liability. Consider your appetite for enforcement in adopting these rules.



Do you want to limit election signs during presidential election year? Or ever?

Solutions: Maybe allow sign anarchy at election time or just allow certain number of signs per square foot of each parcel.

## Critical Areas To Review:

1. Key: Local government cannot be stricter on one type of temporary sign than another. Court will say if you really need the regulation, you would apply it uniformly. If express goal is to eliminate sign clutter, does allowing “Grand Opening Signs” nullify that aesthetic interest? Or if a code allows noncommercial signs to be larger than real estate signs, is the government undermining its general interest in reducing driver distraction?



2. Consider whether the exceptions to permitting requirements further the asserted purpose of the sign code (avoiding clutter etc.)
3. Have different section of the code for temporary and permanent signs so they can be severed.
4. Ideal: Use one standard for all commercial temporary signs (including garage sales) and one standard for all noncommercial temporary signs (applies year round, not just during elections; don't limit number but have a spacing regulation)



Best to have only 3 categories of signs—reduce sign categories as much as possible

- a. Temporary/Permanent
- b. Onsite/Offsite
- c. Commercial/Noncommercial

Slicing and dicing of sign categories will lead to litigation.

Ban on Banners	Exception for grand opening banners	Exception for commercial banners	Banners permitted
Least speech	Slightly more speech	Most speech – substitution applies	Most Speech
Least scrutiny	Strict scrutiny	Less scrutiny	Least scrutiny



## Types of Businesses

Look carefully at how you differentiate among business types. No “speaker based” signs, giving priority to one type of business or to non-profits. For example, problematic to favor gas stations with higher signs and changeable copy, but limit tire stores to shorter signs without changeable copy.





## Example of Permanent vs Temporary Signs

- Can distinguish between permanent and temporary signs, since easily distinguished based on structural characteristics-- permanent signs are affixed to the ground or wall, while temporary signs are not. They are made of different material.



# More Issues

- **Single Family Neighborhoods**

- Must allow noncommercial speech in single family residential zones. (Example: “Nuke the Whales”)



(Court upheld sign code pre – Reed because “sign” violated color & size of wall signs)

- Must allow some kinds of commercial speech in single family residential zones. (Example: “For Sale” and “For Rent”)

- **Flags Always an Issue**

Must avoid viewpoint discrimination. Example: cannot only allow US flags or governmental flags. *Dimmitt v. Clearwater*, 985 F.2d 1565 (11<sup>th</sup> Cir. 1993).

# Right of Way

Protect the right of way and all public property by a complete ban on privately placed signs. Based on a government speech doctrine, you have broad discretion.

- Don't open your right of way to any signs or you're subject to hate speech.
- Remove traffic control devices from the sign regulations, and add findings that traffic control devices are in the public interest.
- No banners over roads except where government is a sponsor for the event and controls content.







# Sign Code Trap



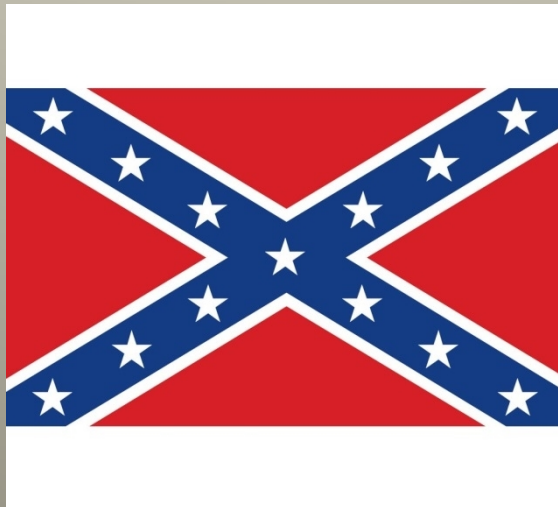
- Favoring Commercial Speech – Very Important!
  - Must not single out political or noncommercial speech for less favorable treatment than commercial speech.  
(i.e. problematic to have more restrictive regulations of **political campaign signs** than of **real estate signs**)



- Most Important - Commercial speech does not have the same protection. Political speech is holiest of holies.
- “What’s good for the goose” rule applies. If 4’ by 4’ temporary real estate commercial sign is allowed in residential districts, political signs should not be limited to 2’ by 2’. Both are temporary signs with the same impacts

## Bright Note: Walker – Decided with Reed

- The Confederate Flag and Free Speech
- The Supreme Court decided in [Walker v. Texas Division, Sons of Confederate Veterans](#) that Texas was free to reject specialty license plates bearing the Confederate battle flag.
- When government speaks, it is not barred by the Free Speech Clause from determining the content of what it says.





## Government Speech:

- Can regulate signs based on 1) Manual on Uniform Traffic Devices 2) To identify property—“high voltage” 3) To implement State laws—post “no trespassing”.
- Safety with government speech - Can define government sign to include signs that are required to be placed by a government either directly or to enforce a property owner’s rights.
- Mandate identification signs



## **Regulate Signs Through:**

1. Location
2. Dimensions
3. Use of Technology
4. Duration
5. Now: Spacing

## Fine-Tuning

- Creates Content
- Based Distinctions
- Underinclusive

## Dumbing Down

- Overinclusive

## What if you allow X square feet of signage, both temporary or permanent?

### Problems:

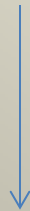
1. Recalculation each time owner wants change to any sign.
2. If total signage is restrictive, permanent signs may become too small to be legible.
3. Temporary signs may become quasi-permanent to compensate for insufficient options.



## Risk Continuum For Temporary Signs

**Will Get Sued**

**Won't Get Sued**



Current Sign Code

Define and regulate signs based on activities on site where sign is located

Each residential parcel is allowed 2 commercial signs and 2 non-commercial to be removed 10 days after the "event"

Each parcel is allowed 32 square feet of non-commercial signage for 180 days per year

No regulations that require you to read the sign (i.e. allow billboards)

**QUESTIONS**



# City of Palm Coast

## Sign Code Amendment



**Community Development Department**  
**Presented by: Estelle Lens, AICP, Planner**

# Land Development Code (LDC)

## Chapter 12

## Signs and Advertising



Sign Code Adopted 2008 with the City's Land Development Code

Certain sections were amended in 2009 and 2012

- These amendments were made working with stakeholders to provide more flexibility for applicants in the development community.

Code is being amended now to:

- Comply with changes in the law.
- Address challenges and make the code more business and community friendly.





## Proposed changes to Chapter 12 include:

- Deleting content-based definitions and replacing with new location-based qualifiers.
- Revising Section 12.06 – Temporary signs to generalize the categories and simplify the categories by providing a table.
- Generally, signs that are currently permitted will remain permitted, and signs that are currently prohibited will remain prohibited.



The table for Temporary Signs replaces the former subsections for:

- Construction signs
- Garage Sale signs
- Political signs
- Real Estate signs, including Open House
- Banners/miscellaneous temporary signs



# TEMPORARY SIGN STANDARDS - NON-RESIDENTIALLY ZONED PROPERTIES

Sign Type	NEW CODE		CURRENT CODE	
	No. of Signs	Area (cumulative) and Height	No. of Signs	Area and Ht.
<b>Commercial signs</b> (Banners – Section 12.06.06 i.e., Grand Opening/Going out of Business)	1 banner sign per business	Limited to height of building	1	32 sf
<b>Non-commercial signs</b> (Political – 12.06.03 Also covers non-Commercial Special Events)	4 per business	Area: lots less than 1 acre - 16 sf; 1.1 acres to 10 acres - 32 sf; more than 10 acres - 48 sf Ht.: 7'	1	16 sf Ht. – 10'
<b>Signs for parcels with active site/building permits</b> (Construction Signs – 12.06.01)	2 visible from row adjacent to lot	Area: lots less than 1 acre - 16 sf; 1.1 acres to 10 acres - 32 sf; more than 10 acres - 48 sf; Ht. - 7'	1	12-48 sf Ht. – 7'
<b>Signs on property being actively marketed for sale, rent or lease</b> (Real Estate – 12.06.04)	2 visible from row adjacent to lot	Area: lots less than 1 acre - 16 sf; 1.1 acres to 10 acres - 32 sf; more than 10 acres - 48 sf; Ht. - 7'	1 per frontage	24 sf Ht. – 7'

# TEMPORARY SIGN STANDARDS - RESIDENTIALLY ZONED PROPERTIES

Sign Type	NEW CODE		CURRENT CODE	
	No. of Signs	Area (cumulative) and Height	No. of Signs	Area and Ht.
<b>Non-commercial signs (Political-12.06.03)</b>	6	6 sf Ht. – 6'	1	6 sf Ht. – 5'
<b>Signs for parcels with active site/building permit (Construction signs-12.06.01)</b>	1	Area: lots less than 1 acre - 4 sf; 1.1 acres to 10 acres - 12 sf; more than 10 acres - 32 sf; Ht. – 7' max	1	6 sf Ht. – 7'
<b>Signs on property being actively marketed for sale, rent or lease, single family zoning (Real Estate Signs including Open House signs-12.06.04)</b>	2 visible from row adjacent to lot; 1 add'l – per property - when available for inspection by prospective buyer/tenant; no larger than 9 sf and only posted on private property with permission of property owner	6 sf per street frontage; Ht. – 6'	1 per frontage	6 sf Ht. – 7'
<b>Signs on property being actively marketed for sale, rent or lease, multi -family zoning (Real Estate signs-12.06.04)</b>	2 visible from row adjacent to lot; 1 add'l when available for inspection by prospective buyer/tenant; no larger than 9 sf and only posted on private property with permission of property owner	24 sf Ht. – 7'	1 per frontage	16 sf Ht. – 5'
<b>Signs on properties with a sale on the property (not defined above)(Garage Sales-12.06.02)</b>	1 per street frontage	6 sf Ht. – 6'	1 per frontage	4 sf

## Two Stakeholder Meetings were held:

- August 22, 2023
- September 26, 2023

The following groups were represented:

- Flagler County Association of Realtors (FCAR)
- Flagler County Association of Responsible Developers (FCARD)
- Palm Coast – Flagler Regional Chamber of Commerce
- Local Attorneys
- Local Developers







to) '1  
lffi JUL 28 2023

BY: xh'

**Open House Sign ordinance for City of Palm Coast  
Recommended by the Flagler County Association of REALTORS**

FCAR recommendations in Black Ink

City's proposed code amendment/responses in Red Ink (Provided at the September 26, 2023 Stakeholder Mtg.)

Summary of request and response - Highlighted

1. One (1) free standing "Open House" sign per street frontage shall be allowed per property. Sign area shall not exceed three (3) square feet and shall be placed only upon the property to be sold or leased. Sign shall be displayed only when the premises are available for inspection by the prospective buyer or tenant.

Amendment proposes for Property being actively marketed for sale or lease:  
(Land Development Code (LDC) Subsection (SS) 12.06.01 Temporary Sign Standards)

- 2 (real estate) signs visible from ROW adjacent to lot  
(Non-Res = 16 SF to 48 SF pending lot size – 7ft high)  
(SFR = 6 SF area – 6 ft high)  
(MFR = 24 SF – 7 ft high)
- 1 additional (open house sign) – per property - only when premises are available for inspection by buyers/tenants - 9 SF max - posted on private property w. permission of property owner
- Location: Setback: (for all above)
  - 2 ft. from public right-of-way.
  - 15 ft. from side property lines.

Request is for one (1) sign per frontage with a 3 SF sign area.

Proposed amendment allows two (2) per street frontage on the subject property and 1 additional - per property - on other lots with owner's permission.

Proposed amendment also allows larger sign areas.

2. Directional Open House signs, which are exhibited by real estate licensees, shall conform to the quantity, size, shape and color restrictions set forth in this Ordinance. Open house signs used by real estate licensees must exhibit the name of the brokerage (FREC guidelines). All open house signs must be done in a professional manner.
  - City does not regulate the content of the sign.
  - LDC SS 12.03.02 Prohibits certain materials (e.g. Paper, cardboard, etc.)

Proposed amendment does not regulate the content of the signs, just size and location of the sign(s) as provided in number 1 above.

Off-Premises directional signs may be permitted subject to the regulations below:

- A. Directional sign size shall not exceed eighteen (18) inches x twenty-four (24) inches.  
(Proposing to allow a greater size for the additional sign – 9 SF)  
Request is to limit to 18" (1.5') X 24" (2') = 3 SF. Proposed amendment allows the additional sign(s) to be 9 sf.
- B. The signs shall be made of plastic, steel, or aluminum. The signs' support posts shall also be made of aluminum or steel. No wooden posts will be permitted.
  - Proposed amendment does not regulate the construction material of the signs. The code currently prohibits certain materials as stated above. e.g. Paper, cardboard, etc. (LDC SS 12.03.02). This is not proposed to change.  
Proposed amendment does not regulate this.
- C. Signs shall not be placed more than two (2) feet in height above the abutting road elevation.
  - See no 1 above. (Proposing to allow taller – 6 or 7 ft.  
Request is to allow maximum height of two (2) feet. Proposed amendment allows 6 ft (SFR zoning), 7 ft (Non-Residential or MFR zoning)
- D. The Sign shall exhibit the name of the brokerage; the words "OPEN HOUSE" are permitted. Signs must exhibit the Disclosure Notification Sticker/Rider" along with QR Code. Signs will abide by FREC guidelines in regard to contact information.  
City does not regulate the content of signs.  
This is not regulated by the City
- E. No more than one (1) directional sign per real estate office shall be placed in each permitted right-a-way (FOOT and State locations not permitted). Signs shall not be placed in any median.
  - See no 1 above for location criteria.
  - Signs are Prohibited in Right of Way LDC SS 12.03.02. EE. (Prohibited Signs)
  - Per the attorney's presentation at the stakeholder meeting on August 22, 2023, municipalities cannot distinguish between types/purpose (content) of signs and are challenged with this issue. Therefor all signs are prohibited in the right of way.  
Signs are not permitted in the right-of-way. (See attorney's legal perspective above, and as provided in the Agenda Item Executive Summary. City is working on an educational tool to educate Realtors (and City staff) on the location of the right-of-way.
- F. Signs shall not be attached to any existing signs, trees, utility poles or any other structures.
  - Yes – Covered in LDC Subsection 12.03.02.  
City agrees with this. This is not proposed to change.
- G. Signs placed in any right-a-way abutting an existing structure(s) shall require the permission of the property owner.
  - Signs are prohibited in any right of way. (See E above.)  
Signs are not permitted in the right-of-way. City is working on an educational tool to assist in determining the location of the right of way.

H. The brokerage of the aforementioned sign of the directional signs shall be held responsible for the removal of such signs no later than 8:00pm on the evening of the Open House. Any signs in violation will be subjected to removal along with the sign being removed and discarded.

- **Amendment proposes "...only when the premises are available for inspection by the prospective buyer or tenant".**

The amendment allows the signs to be posted only when the premises are available for inspection by the buyer or tenant.

I. Real estate licensees who violate this ordinance shall be levied a fine by FCAR with the proceeds benefiting the Flagler Realtors Foundation.

- **City staff are obligated to follow the Land Development Code and State Statutes.**

City is obligated to follow city codes and state statutes.

\*Disclosure Notification Sticker/Rider must be placed on each sign along with QR Code with a required verbiage to be determined by FCAR. The verbiage will notify the community of the allotted times whereas the sign can be posted, and a direct link to FCAR to report this in violation of sign ordinance or past allotted timeframe.

P.O. Box 1216 • Bunnell, FL 32110 • Phone: (386) 437-0095 • Fax: (386) 437-6070

www.FlaglerCountyRealtors.com • Email: [GAD@FlaglerCountyRealtors.com](mailto:GAD@FlaglerCountyRealtors.com)

November 15, 2023 - PLDRB Meeting

The Ordinance is tentatively scheduled for Public Hearings with City Council:

- December 5, 2023 – 1<sup>st</sup> Reading
- December 19, 2023 – 2<sup>nd</sup> Reading



# Questions?

**This chart replaces Section 12.06. - Temporary Signs  
The prior code sections and categories are listed below in RED**

**Sec. 12.06. - Temporary Signs.**<sup>1</sup>

12.06.01 Temporary Sign Standards.

<b>A. NON-RESIDENTIALLY ZONED PROPERTIES' TEMPORARY SIGN STANDARDS</b>				
<b>Sign type</b>	<b>Number of signs</b>	<b>Maximum sign area and height (The sign areas provided are cumulative for the number of signs allowed)</b>	<b>Time</b>	<b>Additional standards</b>
<b>Commercial signs</b> (Banners- Grand Opening/Going out of business 12.06.06)	One banner sign per business.	Limited to height of building.	Remove after 30 consecutive days	1. No more than three times per year. 2.No permit is required.
<b>Non-commercial signs</b> (Politica – Non-Commercial Special Events 12.06.03)	Four per business	Area: Lots less than 1 acre – 16 sf 1.1 acres to 10 acres – 32 sf More than 10 acres – 48 sf Limit 7' in height	If associated with an event, remove 15 calendar days after the event.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.
<b>Signs for parcels with active Site/building permits</b> (Constructions Signs 12.06.01)	Two visible from rights-of-way adjacent to lot.	Area: Lots less than 1 acre – 16 sf 1.1 acres to 10 acres – 32 sf More than 10 acres – 48 sf  Height: 7 ft max height	Remove within 3 calendar days after issuance of a final inspection or certificate of occupancy.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines. 3. Maximum 1 sign facing each public right of way. 4. Can divide sign allowance between 2 different signs.
<b>Signs on property being actively marketed for sale, rent or lease</b> (Real Estate 12.06.04)	Two visible from rights-of-way adjacent to lot.	Area: Lots less than 1 acre – 16sf 1.1 acres to 10 acres – 32 sf More than 10 acres – 48 sf  Height: 7 ft.	Remove within 3 calendar days after sale or lease.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.



**B. RESIDENTIALLY ZONED PROPERTIES' TEMPORARY SIGN STANDARDS**

Sign Type	Number of Signs	Maximum Sign Area and Height (The sign areas provided are cumulative for the number of signs allowed)	Time	Permit Requirements and Additional standards
<b>Non-commercial signs</b> <i>(Political 12.06.03)</i>	Six	Area: 6 sf Height: 6 ft	If associated with an event, remove 15 calendar days after the event.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.
<b>Signs for parcels with active site/building permits</b> <i>(Constructions Signs 12.06.01)</i>	One per lot	Area: Lots less than 1 acre – 4 sf 1.1 acres to 10 acres – 12 sf More than 10 acres – 32 sf  Height: 7 ft max height	Remove within 3 calendar days after issuance of a final inspection or certificate of completion.	
<b>Signs on property being actively marketed for sale, rent or lease, single family zoning.</b> <i>(Real Estate Signs including Open House Signs 12.06.04)</i>	Two visible from rights-of-way adjacent to lot; one additional sign (per property) only when the premises are available for inspection by the prospective buyer or tenant; said additional sign shall not be larger than 9 sf and may only be posted on private property with the permission of the property owner.	Area: 6 sf per street frontage Height: 6 ft.	Remove within 3 calendar days of sale or lease.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.
<b>Signs on property being actively marketed for sale, rent or lease, multi-family zoning</b> <i>(Real Estate Signs 12.06.04)</i>		Area: 24 sf  Height: 7 ft		
<b>Signs on properties with a sale on the property</b> (Not defined above) <i>(Garage Sales 12.06.02)</i>	One per street frontage	Area: 6 sf  Height: 6 ft	Remove within 3 calendar days after the event.	

**ORDINANCE - \_\_\_\_\_**  
**UNIFIED LAND DEVELOPMENT CODE**

**AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA, AMENDING SECTION 3.01.06, USES NOT PERMITTED IN THE CITY, CHAPTER 3, ZONING USES, AND DIMENSIONAL STANDARDS, OF THE CODE OF ORDINANCES OF THE CITY OF PALM COAST, TO PROHIBIT OUTDOOR ADVERTISING; AMENDING CHAPTER 12, SIGNS AND ADVERTISING OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE, TO ENSURE COMPLIANCE WITH CONSTITUTIONAL AND OTHER LEGAL REQUIREMENTS AND TO PROVIDE A PURPOSE, INTENT AND SCOPE; AMENDING SECTION 14.02 GLOSSARY, OF CHAPTER 14 OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE TO ADD, DELETE AND RESTATE VARIOUS DEFINITIONS; AMENDING CRITERIA RELATED TO THE AMENDED DEFINITIONS; PROVIDING THAT EXISTING NON-CONFORMING SIGNS MAY BE CONTINUED; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Palm Coast finds and determines that it is appropriate to update and revise its Land Development Code relative to signs; and

**WHEREAS**, the City of Palm Coast finds and determines that it is appropriate to delete sections, subsections, paragraphs, subparagraphs, divisions, subdivisions, clauses, sentences, phrases, words, and provisions of the existing ordinance which are obsolete or superfluous, and/or which have not been enforced, and/or which are not enforceable, and/or which would be severable by a court of competent jurisdiction; and

**WHEREAS**, the City Council of the City of Palm Coast has determined the need to update and revise the definitions as they relate to signs in its Land Development Code, and to update and revise other definitions in its Land Development Code; and

**WHEREAS**, the City Council wishes to ensure that the definitions in the City's Land Development Code as they relate to signs are in compliance with all constitutional and other legal requirements; and

**WHEREAS**, the City of Palm Coast finds and determines that the updated and revised definitions herein are consistent with all applicable policies of the City's adopted Comprehensive Plan; and

**WHEREAS**, the City of Palm Coast finds and determines that the updated and revised definitions herein are not in conflict with the public interest; and

**WHEREAS**, the City of Palm Coast recognizes that definitions in the City's Land Development Code need to be deleted, revised or added to in light of the recent decision in *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155 , 135 S. Ct. 2218, 192 L. Ed. 2d 236 (2015); and

**WHEREAS**, the City of Palm Coast finds and determines that it is appropriate to ensure that the Land Development Code as it relates to signs is in compliance with all constitutional and other legal requirements; and

**WHEREAS**, the City of Palm Coast finds and determines that the purpose, intent and scope of its signage standards and regulations should be detailed so as to further describe the beneficial aesthetic and other effects of the City's sign standards and regulations, and to reaffirm that the sign standards and regulations are concerned with the secondary effects of speech and are not designed to censor speech or regulate the viewpoint of the speaker; and

**WHEREAS**, the City of Palm Coast finds and determines that the limitations on the size (area), height, number, spacing, and setback of signs, adopted herein, are based upon sign types; and

**WHEREAS**, the City of Palm Coast finds and determines that limitations on signs are related to the zoning districts for the parcels and properties on which they are located; and

**WHEREAS**, the City of Palm Coast finds and determines that various signs that serve as signage for particular land uses, such as drive-through lanes for businesses, are based upon content-neutral criteria in recognition of the functions served by those land uses, but not based upon any intent to favor any particular viewpoint or control the subject matter of public discourse; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign standards and regulations adopted hereby still allow adequate alternative means of communications; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign standards and regulations adopted hereby allow and leave open adequate alternative means of communications, such as newspaper advertising and communications, internet advertising and communications, advertising and communications in shoppers and pamphlets, advertising and communications in telephone books, advertising and communications on cable and satellite television, advertising and communications on UHF and/or VHF television, advertising and communications on AM and/or FM radio, advertising and communications on satellite and internet radio, advertising and communications via direct mail, and other avenues of communication available in the City of Palm Coast [*see State v. J & J Painting*, 167 N.J. Super. 384, 400 A.2d 1204, 1205 (Super. Ct. App. Div. 1979); *Board of Trustees of State University of New York v. Fox*, 492 U.S. 469, 477 (1989); *Green v. City of Raleigh*, 523 F.3d 293, 305-306 (4th Cir. 2007); *Naser Jewelers v. City of Concord*, 513 F.3d 27 (1st Cir. 2008); *Sullivan v. City of Augusta*, 511 F.3d 16, 43-44 (1st Cir. 2007); *La Tour v. City of Fayetteville*, 442 F.3d 1094, 1097 (8th Cir. 2006); *Reed v. Town of Gilbert, Ariz.*, 587

F.3d 966, 980-981 (9th Cir. 2009), *aff'd in part & remanded in part on other grounds*, 832 F. Supp. 2d 1070, *aff'd*, 707 F.3d 1057, 1063 (9th Cir. 2013), *cert. granted*, 134 S. Ct. 2900 (2014), *rev'd on other grounds & remanded*, 135 S. Ct. 2218 (2015).]; and

**WHEREAS**, the City of Palm Coast finds and determines that the provisions of Chapter 12 (Unified Land Development Code), City of Palm Coast Code of Ordinances, that replace the current Chapter 12 are consistent with all applicable policies of the City's adopted Comprehensive Plan; and

**WHEREAS**, the City of Palm Coast finds and determines that these amendments are not in conflict with the public interest; and

**WHEREAS**, the City of Palm Coast finds and determines that these amendments will not result in incompatible land uses; and

**WHEREAS**, the City of Palm Coast recognizes that under established Supreme Court precedent, a law that is content-based is subject to strict scrutiny under the First Amendment of the U.S. Constitution, and such law must therefore satisfy a compelling governmental interest; and

**WHEREAS**, the City of Palm Coast recognizes that under established Supreme Court precedent, a compelling government interest is a higher burden than a substantial or significant governmental interest; and

**WHEREAS**, the City of Palm Coast recognizes that under established Supreme Court precedent, aesthetics is not a compelling governmental interest but is a substantial governmental interest; and

**WHEREAS**, the City of Palm Coast recognizes that until a recent Supreme Court decision released in June 2015, there had not been clarity as to what constitutes a content-based law as distinguished from a content-neutral law; and

**WHEREAS**, the City of Palm Coast recognizes that in *Reed v. Town of Gilbert, Ariz.*, -- U.S. —, 135 S. Ct. 2218, 192 L. Ed. 2d 236 (2015), the United States Supreme Court, in an opinion authored by Justice Thomas, and joined in by Chief Justices Roberts, Scalia, Alito, Kennedy and Sotomayer, addressed the constitutionality of a local sign ordinance that had different criteria for different types of temporary noncommercial signs; and

**WHEREAS**, the City of Palm Coast recognizes that in *Reed*, the Supreme Court held that content-based regulation is presumptively unconstitutional and requires a compelling governmental interest; and

**WHEREAS**, the City of Palm Coast recognizes that in *Reed*, the Supreme Court held that government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed; and

**WHEREAS**, the City of Palm Coast recognizes that in *Reed*, the Supreme Court held that if a sign regulation on its face is content-based, neither its purpose, nor function, nor justification matter, and the sign regulation is therefore subject to strict scrutiny and must serve a compelling governmental interest; and

**WHEREAS**, the City of Palm Coast recognizes that in *Reed*, Justice Alito in a concurring opinion joined in by Justices Kennedy and Sotomayer pointed out that municipalities still have the power to enact and enforce reasonable sign regulations; and

**WHEREAS**, the City of Palm Coast recognizes that Justice Alito in the concurring opinion joined in by Justices Kennedy and Sotomayer provided a list of rules that would not be content-based; and

**WHEREAS**, the City of Palm Coast recognizes that Justice Alito noted that these rules, listed below, were not a comprehensive list of such rules; and

**WHEREAS**, the City of Palm Coast recognizes that Justice Alito included the following rules among those that would not be content-based: (1) rules regulating the size of signs, which rules may distinguish among signs based upon any content-neutral criteria such as those listed below; (2) rules regulating the locations in which signs may be placed, which rules may distinguish between freestanding signs and those attached to buildings; (3) rules distinguishing between lighted and unlighted signs; (4) rules distinguishing between signs with fixed messages and electronic signs with messages that change; (5) rules that distinguish between the placement of signs on private and public property; (6) rules distinguishing between the placement of signs on commercial and residential property; (7) rules distinguishing between on-premises and off-premises signs [*see discussion in Memorandum dated September 11, 2015 from Lawrence Tribe to Nancy Fletcher, President, Outdoor Advertising Association of America, re Applying the First Amendment to Regulations Distinguishing Between Off-premises and On-premises Signs After Reed v. Town of Gilbert*]; (8) rules restricting the total number of signs allowed per mile of roadway; and (9) rules imposing time restrictions on signs advertising a one-time event, where rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed; and

**WHEREAS**, the City of Palm Coast recognizes that Justice Alito further noted that in addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech [*see Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 467-469 (2009)], and that government entities may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots; and

**WHEREAS**, the City of Palm Coast recognizes that Justice Alito noted that the *Reed* decision, properly understood, will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives, including rules that distinguish between on-premises and off-premises signs; and



**WHEREAS**, the City of Palm Coast recognizes that as a result of the *Reed* decision, it is appropriate and necessary for local governments to review and analyze their sign standards and regulations, beginning with their temporary sign standards and regulations, so as to make the necessary changes to conform with the holding in *Reed*; and

**WHEREAS**, the City of Palm Coast recognizes that under established Supreme Court precedent, commercial speech may be subject to greater restrictions than noncommercial speech and that doctrine is true for both temporary signs as well as for permanent signs; and

**WHEREAS**, the U.S. Supreme Court has determined that persons desiring to sell their homes have the same right to communication via signage as other commercial interests, and residents were entitled to information on sales activity, so real estate signs could not be prohibited, in *Linmark Associates, Inc. v. Township of Willingboro*, 97 S.Ct. 1614 (1977); and

**WHEREAS**, the City of Palm Coast finds and determines that it should continue to prohibit discontinued signs regardless of whether or not there was any intent to abandon the sign; and

**WHEREAS**, the City of Palm Coast finds and determines that a traffic control device sign, exempt from regulation under the City's land development regulations for signage, is any government sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard, and according to the MUTCD traffic control device signs include those signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information); and

**WHEREAS**, the City of Palm Coast finds and determines that it is appropriate to continue to prohibit certain vehicle signs similar to the prohibition suggested in Article VIII (Signs) of the Model Land Development Code for Cities and Counties, prepared in 1989 for the Florida Department of Community Affairs by the UF College of Law's Center for Governmental Responsibility and by a professional planner with Henigar and Ray Engineering Associates, Inc., and that is nearly identical to Section 7.05.00(x) of the Land Development Regulations of the Town of Orange Park, which were upheld against a constitutional challenge in *Perkins v. Town of Orange Park*, 2006 WL 5988235 (Fla. 4th Cir. Ct.); and

**WHEREAS**, the City of Palm Coast finds and determines that in order to preserve the City as a desirable community in which to live, recreate and do business, a pleasing, visually-attractive urban environment is of foremost importance; and

**WHEREAS**, the City of Palm Coast finds and determines that the regulation of signs within the City is a highly contributive means by which to achieve this desired end, and that the sign standards and regulations in this proposed Ordinance are prepared with the intent of enhancing the urban environment and promoting the continued well-being of the City; and

**WHEREAS**, the City of Palm Coast finds and determines that Article II, Section 7, of the Florida Constitution, as adopted in 1968, provides that it shall be the policy of the state to conserve and protect its scenic beauty; and

**WHEREAS**, the City of Palm Coast finds and determines that the regulation of signage for purposes of aesthetics is a substantial governmental interest and directly serves the policy articulated in Article II, Section 7, of the Florida Constitution, by conserving and protecting its scenic beauty; and

**WHEREAS**, the City of Palm Coast finds and determines that the regulation of signage for purposes of aesthetics has long been recognized as advancing the public welfare; and

**WHEREAS**, the City of Palm Coast finds and determines that as far back as 1954 the United States Supreme Court recognized that “the concept of the public welfare is broad and inclusive,” that the values it represents are “spiritual as well as physical, aesthetic as well as monetary,” and that it is within the power of the legislature “to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled” [Justice Douglas in *Berman v. Parker*, 348 U.S. 26, 33 (1954)]; and

**WHEREAS**, the City of Palm Coast finds and determines that aesthetics is a valid basis for zoning, and the regulation of the size of signs and the prohibition of certain types of signs can be based upon aesthetic grounds alone as promoting the general welfare [see *Merritt v. Peters*, 65 So. 2d 861 (Fla. 1953); *Dade Town v. Gould*, 99 So. 2d 236 (Fla. 1957); *E.B. Elliott Advertising Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 805 (1970)]; and

**WHEREAS**, the City of Palm Coast finds and determines that the enhancement of the visual environment is critical to a community’s image and its continued presence as a master planned community; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign control principles set forth herein create a sense of character and ambiance that distinguishes the City as one with a commitment to maintaining and improving an attractive environment; and

**WHEREAS**, the City of Palm Coast finds and determines that the beauty of the City of Palm Coast, both with regard to its natural and built and developed environment has provided the foundation for the economic base of the City’s development, and that the City’s sign regulations not only help create an attractive community for its residents, but also bolster Palm Coast’s image as a master planned community; and

**WHEREAS**, the City of Palm Coast finds and determines that the goals, objectives and policies from planning documents developed over the years, demonstrate a strong, long-term commitment to maintaining and improving the City’s attractive and visual environment; and

**WHEREAS**, the City of Palm Coast finds and determines that, from a planning perspective, one of the most important community goals is to define and protect aesthetic resources and community character; and

**WHEREAS**, the City of Palm Coast finds and determines that, from a planning perspective, sign regulations are especially important to cities with a master planned community , and sign control can create a sense of character and ambiance that distinguishes one community from another; and

**WHEREAS**, the City of Palm Coast finds and determines that preserving and reinforcing the uniqueness of a community like Palm Coast attracts future residents and, more importantly, establishes a permanent residential and commercial base to ensure the future viability of the community; and

**WHEREAS**, the City of Palm Coast finds and determines that the purpose of the regulation of signs as set forth in this Ordinance is to promote the public health, safety and general welfare through a comprehensive system of reasonable, consistent and nondiscriminatory sign standards and requirements; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to enable the identification of places of residence and business; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to allow for the communication of information necessary for the conduct of commerce; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation and excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to enhance the attractiveness and economic well-being of the City as a place to live, recreate and conduct business; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to protect the public from the dangers of unsafe signs; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to permit signs that are compatible with their surroundings and aid orientation, and to preclude placement of signs in a manner that conceals or obstructs adjacent land uses or signs; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to encourage signs that are appropriate to the zoning district in which they are located and which are consistent with the category of use to which they pertain; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to curtail the size and number of signs and sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such business; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to preclude signs from conflicting with the principal permitted use of the site or adjoining sites; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to require signs to be constructed, installed and maintained in a safe and satisfactory manner; and

**WHEREAS**, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to preserve and enhance the natural and scenic characteristics of this master planned community committed to aesthetics and environmentally sensitive design; and

**WHEREAS**, the City of Palm Coast finds and determines that the regulation of signage was originally mandated by Florida's Local Government Comprehensive Planning and Land Development Regulation Act in 1985 (*see* Chapter 85-55, §14, Laws of Florida), and this requirement continues to apply to the City of Palm Coast through Section 163.3202(2)(f), Florida Statutes; and

**WHEREAS**, the City of Palm Coast finds and determines that it has adopted a land development code, known as the Unified Land Development Code, in order to implement its Comprehensive Plan, and to comply with the minimum requirements in the State of Florida's Growth Management Act, at Section 163.3202, Florida Statutes, including the regulation of signage and future land use; and

**WHEREAS**, the City of Palm Coast finds and determines that the Unified Land Development Code is the manner by which the City has chosen to regulate signage; and

**WHEREAS**, the City of Palm Coast finds and determines that the Unified Land Development Code and its signage regulations were and are intended to maintain and improve the quality of life for all citizens of the City; and

**WHEREAS**, the City of Palm Coast finds and determines that in meeting the purposes and goals established in these preambles, it is appropriate to continue to prohibit certain sign types; and

**WHEREAS**, the City of Palm Coast finds and determines that consistent with the foregoing preambles, it is appropriate to continue to generally prohibit the sign types listed in Sec. 12.03.02, Prohibited Signs within this Ordinance; and

**WHEREAS**, the City of Palm Coast finds and determines that billboards detract from the natural and manmade beauty of the City; and

**WHEREAS**, the City of Palm Coast agrees with the American Society of Landscape Architects' determination that billboards tend to deface nearby scenery, whether natural or built and the Sierra Club's opposition to billboard development and proliferation and the American Society of Civil Engineers Policy Statement 117 on Aesthetics that aesthetic quality should be an element of the planning, design, construction, operations, maintenance, renovation, rehabilitation, reconstruction, and security enhancement of the built environment; and

**WHEREAS**, the City of Palm Coast recognizes that states such as Vermont, Alaska, Maine, and Hawaii have prohibited the construction of billboards in their states and are now billboard-free in an effort to promote aesthetics and scenic beauty; and

**WHEREAS**, the City of Palm Coast finds and determines that the prohibition of the construction of billboards and certain other sign types, as well as the establishment and continuation of height, size and other standards for on-premise signs, is consistent with the policy set forth in the Florida Constitution that it shall be the policy of the state to conserve and protect its scenic beauty; and

**WHEREAS**, the City of Palm Coast agrees with the courts that have recognized that outdoor advertising signs tend to interrupt what would otherwise be the natural landscape as seen from the highway, whether the view is untouched or ravished by man, and that it would be unreasonable and illogical to conclude that an area is too unattractive to justify aesthetic improvement [*see E. B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 805 (1970); *John Donnelly & Sons, Inc. v. Outdoor Advertising Bd.*, 339 N.E.2d 709, 720 (Mass. 1975)]; and

**WHEREAS**, the City of Palm Coast recognizes that local governments may separately classify off-site and on-site advertising signs in taking steps to minimize visual pollution [*see City of Lake Wales v. Lamar Advertising Association of Lakeland Florida*, 414 So.2d 1030, 1032 (Fla. 1982)]; and

**WHEREAS**, the City of Palm Coast finds and determines that billboards attract the attention of drivers passing by the billboards, thereby adversely affecting traffic safety and constituting a public nuisance and a noxious use of the land on which the billboards are erected; and



**WHEREAS**, the City of Palm Coast finds, determines and recognizes that billboards are a form of advertisement designed to be seen without the exercise of choice or volition on the part of the observer, unlike other forms of advertising that are ordinarily seen as a matter of choice on the part of the observer [*see Packer v. Utah*, 285 U.S. 105 (1932); and *General Outdoor Advertising Co. v. Department of Public Works*, 289 Mass. 149, 193 N.E. 799 (1935)]; and

**WHEREAS**, the City of Palm Coast acknowledges that the United States Supreme Court and many federal courts have accepted legislative judgments and determinations that the prohibition of billboards promotes traffic safety and the aesthetics of the surrounding area. [*see Markham Adver. Co. v. State*, 73 Wash.2d 405, 439 P.2d 248 (1969), *appeal dismissed for want of a substantial federal question*, 439 U.S. 808 (1978); *Markham Adver. Co., Inc. v. State*, Case No. 648, October Term, 1968, Appellants' Jurisdictional Statement, 1968 WL 129277 (October 14, 1968); *Suffolk Outdoor Adver. Co., Inc. v. Hulse*, 43 N.Y.2d 483, 372 N.E.2d 263 (1977), *appeal dismissed for want of a substantial federal question*, 439 U.S. 808 (1978); *Suffolk Outdoor Adver. Co., Inc. v. Hulse*, Case No. 77-1670, October Term, 1977, Appellant's Jurisdictional Statement (March 23, 1978); *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 509-510 (1981); *Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 806-807 (1984), *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 425 and 442 (1993); *National Advertising Co. v. City and County of Denver*, 912 F.2d 4055, 409 (10th Cir. 1990), and *Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1239 (D. Kan. 1999)]; and

**WHEREAS**, the City of Palm Coast finds, determines and recognizes that on-site business signs are considered to be part of the business itself, as distinguished from off-site outdoor advertising signs, and that it is well-recognized that the unique nature of outdoor advertising and the nuisances fostered by billboard signs justify the separate classification of such structures for the purposes of governmental regulation and restrictions [*see E. B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141, 1153 (5th Cir. 1970), *cert. denied*, 400 U.S. 805 (1970), quoting *United Advertising Corp. v. Borough of Raritan*, 11 N.J. 144, 93 A.2d 362, 365 (1952)]; and

**WHEREAS**, the City of Palm Coast finds and determines that a prohibition on the erection of off-site outdoor advertising signs has and will reduce the number of driver distractions and the number of aesthetic eyesores along the roadways and highways of the City [*see, e.g., E. B. Elliott Adv. Co. v. Metropolitan Dade County*, 425 F.2d 1141, 1154 (5th Cir. 1970), *cert. denied*, 400 U.S. 805 (1970)]; and

**WHEREAS**, the City of Palm Coast finds and determines that billboard signs are public nuisances given their adverse impact on both traffic safety and aesthetics; and

**WHEREAS**, the City of Palm Coast finds and determines that billboards are a traffic hazard and impair the beauty of the surrounding area, and the prohibition of the construction of billboards will reduce these harms [*see Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1239 (D. Kan. 1999)]; and

**WHEREAS**, the City of Palm Coast finds and determines that the presence of billboards along the federal interstate and the federal-aid primary highway systems has prevented public

property in other jurisdictions from being used for beautification purposes due to view zones established by state administrative rule; and

**WHEREAS**, the City of Palm Coast recognizes that Scenic America, Inc. recommends improvements in the scenic character of a community's landscape and appearance by prohibiting the construction of billboards, and by setting height, size and other standards for on-premise signs [see Scenic America's Seven Principles for Scenic Conservation, Principle #5]; and

**WHEREAS**, the City of Palm Coast recognizes that more than three hundred Florida communities have adopted ordinances prohibiting the construction of billboards in their communities in order to achieve aesthetic, beautification, traffic safety, and/or other related goals; and

**WHEREAS**, the City of Palm Coast finds and determines that in order to preserve, protect and promote the safety and general welfare of the residents of the City, it is necessary to regulate off-site advertising signs, commonly known as billboard signs or billboards, so as to prohibit the construction of billboards in all zoning districts, and to provide that the foregoing provisions shall be severable; and

**WHEREAS**, the City of Palm Coast finds and determines that the continued prohibition of billboards as set forth herein will improve the beauty of the City, foster overall improvement to the aesthetic and visual appearance of the City, preserve and open up areas for beautification on public property adjoining the public roadways, increase the visibility, readability and/or effectiveness of on-site signs by reducing and/or diminishing the visual clutter of off-site signs, enhance the City as an attractive place to live and/or work, reduce blighting influences, and improve traffic safety by reducing driver distractions; and

**WHEREAS**, the City of Palm Coast wishes to assure that new billboards are effectively prohibited as a sign-type within the City; and

**WHEREAS**, the City of Palm Coast finds and determines that anything beside the road which tends to distract the driver of a motor vehicle directly affects traffic safety, and signs, which divert the attention of the driver and occupants of motor vehicles from the highway to objects away from it, may reasonably be found to increase the danger of accidents, and agrees with the courts that have reached the same determination [see *In re Opinion of the Justices*, 103 N.H. 268, 169 A.2d 762 (1961); *Newman Signs, Inc. v. Hjelle*, 268 N.W.2d 741 (N.D.1978)]; and

**WHEREAS**, the City of Palm Coast acknowledges that the Seven Justices' views in *Metromedia*, as expressly recognized in the later Supreme Court decisions in *Taxpayers for Vincent* and *Discovery Network*; and in more than a dozen published Circuit Court of Appeal decisions following *Metromedia*, on the permissible distinction between onsite signs and offsite signs-when it comes to government's substantial interest in prohibiting the latter sign type (the offsite sign), including: *Major Media of the Southeast, Inc. v. City of Raleigh*, 792 F.2d 1269, 1272 (4th Cir. 1986); *Georgia Outdoor Advertising, Inc. v. City of Waynesville*, 833 F.2d 43, 45-46 (4th Cir. 1987); *Naegele Outdoor Adver., Inc. v. City of Durham*, 844 F.2d 172, 173-174 (4th Cir. 1988); *Nat'l Adver. Co. v. City and County of Denver*, 912 F.2d 405, 408-411 (10th Cir. 1990);

*Nat'l Adver. Co. v. Town of Niagara*, 942 F.2d 145, 157-158 (2nd Cir. 1991); *Outdoor Systems, Inc. v. City of Mesa*, 997 F.2d 604, 610-612 (9th Cir. 1993); *Outdoor Graphics, Inc. v. City of Burlington, Iowa*, 103 F.3d 690, 695 (8th Cir. 1996); *Ackerley Communications of Northwest v. Krochalis*, 108 F.3d 1095, 1099 (9th Cir. 1997); *Southlake Property Associates, Ltd. v. City of Morrow, Ga.*, 112 F.3d 1114, 1117-1119 (11th Cir. 1997), *cert. denied*, 525 U.S. 820 (1998); *Bad Frog Brewery, Inc. v. New York State Liquor Authority*, 134 F.3d 87, 99 (2nd Cir. 1998); *Lavey v. City of Two Rivers*, 171 F.3d 1110, 1114-1115 (7th Cir. 1999); *Long Island Bd. of Realtors, Inc. v. Incorp. Village of Massapequa Park*, 277 F.3d 622, 627 (2nd Cir. 2002); *Clear Channel Outdoor, Inc. v. City of Los Angeles*, 340 F.3d 810, 814-816 (9th Cir. 2003); *Riel v. City of Bradford*, 485 F.3d 736, 753 (3rd Cir. 2007); *Naser Jewelers, Inc. v. City of Concord, N.H.*, 513 F.3d 27, 36 (1st Cir. 2008); and *RTM Media, L.L.C. v. City of Houston*, 584 F.3d 220, 225 (5th Cir. 2009); and

**WHEREAS**, the U.S. Supreme Court recently affirmed these cases by ruling that laws distinguishing between on-premises and off-premises signs regulate a sign's location, not its message. Those laws are therefore subject to intermediate, not strict, scrutiny, according to *City of Austin, Texas v. Reagan Nat'l Advert. of Austin, LLC*, 142 S.Ct. 1464 (2022); and

**WHEREAS**, the City of Palm Coast recognizes that the distinction between the location of off-premises signs and on-premises signs is a time, place and manner regulation, and recognizes that in 1978 in *Suffolk Outdoor*, over the objection of Justices Blackmun and Powell, the U.S. Supreme Court denied review of the underlying decision for the want of a substantial federal question and that the denial on this basis was a decision on the merits, wherein the decision was framed by the petitioner's jurisdictional statement which presented its first question as to whether a total ban on billboards within an entire municipality was constitutional, claiming that this disparate treatment of off-premises billboards from on-premises accessory signs was a violation of the First Amendment; and

**WHEREAS**, the City of Palm Coast acknowledges that the significance of *Suffolk Outdoor* is that it was a merits decision that recognized that it is constitutionally permissible to distinguish between on-site signs and off-site signs (Billboards) for regulatory purposes, and to ban the latter, and that this merits decision has never been overturned, and that it has been recently upheld in *City of Austin, Texas v. Reagan Nat'l Advert. of Austin, LLC*, 142 S.Ct. 1464 (2022); and

**WHEREAS**, the City of Palm Coast finds and determines, consistent with the foregoing preambles, that the business of outdoor advertising should be a prohibited use in each of the City's zoning districts; and

**WHEREAS**, the City of Palm Coast finds and determines that by confirming in its ordinance that noncommercial messages are allowed wherever commercial messages are permitted, the City will continue to overcome any constitutional objection that its ordinance impermissibly favors commercial speech over noncommercial speech [*see Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1236-1237 (D. Kan. 1999)]; and

**WHEREAS**, the City of Palm Coast finds and determines that the prohibition on billboards, as contained herein, continue in effect regardless of the invalidity or unconstitutionality of any, or even all, other provisions of the City’s sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever; and

**WHEREAS**, the City of Palm Coast finds and determines that it desires to make clear that billboards are not a compatible land use within the City and that there can be no good faith reliance by any prospective billboard developer under Florida vested rights law in connection with the prospective erection or construction of new or additional billboards within the jurisdictional limits of the City; and

**WHEREAS**, the City of Palm Coast finds and determines that it is appropriate to allow for the display of allowable temporary signage without any prior restraint or permit requirement; and

**WHEREAS**, the City of Palm Coast finds and determines that it is appropriate to prohibit direct illumination of the surface of any temporary sign but such prohibition shall not be construed to constrain the general illumination of flags and flagpoles unless otherwise expressly prohibited; and

**WHEREAS**, Chapter 12 does not regulate City signs on property owned by the City, Flagler County or the State of Florida, and does not regulate Traffic Control Devices; and

**WHEREAS**, the City specifically finds that these sign regulations are narrowly tailored to achieve the compelling and substantial governmental interests of traffic safety and aesthetics, and that there is no other way for the City to further these interests; and

**WHEREAS**, the Florida Legislature has recently adopted subsection 22 of Fla. Stat. §553.79, which appears to be a content based sign code in violation of *Reed v. Gilbert*, --U.S.--, 135 S. Ct. 2218, 192 L. Ed. 2d 236 (2015); but in the interest of avoiding a claim under Fla. Stat. §57.112, the sign code is amended to recognize that to the extent of a documented conflict between the City sign code and Fla. Stat. §553.79(22), the statute will prevail.

**WHEREAS**, words with double underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text, and asterisks (\* \* \*) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA:**

**SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS.** The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

**SECTION 2.** It is hereby ordained by the City of Palm Coast, Florida: that Section 3.01.06, Uses not permitted in the City, of Chapter 3, Zoning Uses, and Dimensional Standards,

of the Unified Land Development Code, City of Palm Coast, Florida, is hereby amended to add a use to the list of prohibited uses as follows:

3.01.06. *Uses not permitted in the city.* The following uses may be permitted by a super majority vote of the City Council subsequent to an affirmative or negative recommendation by the Planning and Land Development Regulation Board. This is due to their potential incompatibility with current development trends in the City, their potential deleterious effects upon the public health, safety, and welfare, and the potential likelihood that they will create nuisances and significant adverse impacts upon adjacent land uses. The list is not all-inclusive and other uses found by the Land Use Administrator to be similar in nature and character to the listed uses shall also require approval by the City Council in the aforementioned manner.

Asphalt Manufacturing Plants

Animal Feed Lots and Livestock Operations

Bottle Clubs

Business of Outdoor Advertising\*

Deep Well Injection of Waste Products

Dog Farms

Hog and Poultry Farms

Incinerator Plants

Junkyards, Salvage Yards

Motor Vehicle Race Tracks

Paper and Pulp Mills

\* \* \*

\*The business of outdoor advertising means the business of erecting, operating, using, maintaining, leasing, or selling outdoor advertising structures, outdoor advertising signs, or outdoor advertisements that are prohibited in this code.

\* \* \*

**SECTION 3.** It is hereby ordained by the City of Palm Coast, Florida: that Chapter 12 – Signs and Advertising of the Unified Land Development Code, City of Palm Coast, Florida, is hereby amended to read as follows:



## Chapter 12 - SIGNS AND ADVERTISING

## Sec. 12.01. - Generally.

12.01.01. Purpose and intent. ~~The purpose of this chapter is to ensure adequate means of communication through signage while maintaining the attractive visual appearance within the City. This chapter does not regulate content of signage or restrain the free exercise of protected speech. By specifying criteria for all signage as stated herein, this chapter is intended to serve the following purposes:~~

(1) It is the purpose of this chapter to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this chapter are also designed and intended to meet the statutory requirement that this municipality adopt land development regulations that regulate signage, a requirement set forth in F.S. § 163.3202(f). The sign regulations in this chapter are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests such as traffic safety and warning signs of threats to bodily injury or death. The City specifically finds that these sign regulations are narrowly tailored to achieve the compelling and substantial governmental interests of traffic safety and aesthetics, and that there is no other way for the City to further these interests.

This chapter regulates signs, as defined in this Unified Land Development Code, which are placed on private property. This chapter is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation.

The City boundary is depicted on the official zoning map. In order to preserve and promote the City as a desirable community in which to live, recreate and do business, a pleasing, visually attractive environment is of foremost importance. The regulation of signs within the City is a highly contributive means by which to achieve this desired end.

This chapter is intended to serve the following purposes:

- A. Maintain the established suburban character of the City by regulating all exterior signage in a manner which promotes low profile signage of high quality design and enhances the City's ability to attract sources of economic development and growth;
- B. Protect and maintain the visual integrity of roadway corridors within the City by establishing a maximum amount of signage on any site to avoid visual clutter;
- C. Protect motorists from visual distractions, obstructions, and hazards by regulating the location of signs;
- D. Enhance the appearance of the physical environment by requiring that signage be designed to complement the architecture of the structure which the signage is intended to identify, and sited in a manner which is sensitive to the existing natural environment;
- E. Allow signage that satisfies the visibility, identification, and communication needs of the local business community;

- F. Foster civic pride and community spirit by maximizing the positive impact of development;
- G. Establish procedures and regulations for the construction and maintenance of signs, removal of nonconforming signs, variances, and enforcement of these regulations;
- H. Improve pedestrian and traffic safety;
- I. Minimize the possible adverse effect of signs on nearby public and private property;
- J. Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;
- ~~K. Categorize signs based upon the function that they serve and tailor the regulation of signs based upon their function;~~
- ~~L. Preclude signs from conflicting with the principal permitted use of the site and adjoining sites;~~
- ~~M. Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed, and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;~~
- ~~N. Protect property values by precluding to the maximum extent possible sign-types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;~~
- ~~O. Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the City and that complements the natural surroundings in recognition of this City's reliance on its natural surroundings and beautification efforts in retaining economic advantage for its master planned community, as well as for its major subdivisions, shopping centers, and industrial parks; ~~and~~~~
- ~~P. Provide the fair and consistent enforcement of these sign regulations;~~
- O. Allow for traffic control devices and government signs without regulation, consistent with state and national standards, because they promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and by notifying road users of regulations and providing state and nationally consistent warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream and modes of travel, while regulating private signs to ensure that their size, location and other attributes do not impair the effectiveness of such traffic control devices.
- P. Enable the fair and consistent enforcement of these sign regulations;
- Q. Promote the use of signs that positively contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings and landscape, and advance the City's goals of quality development;

- R. Provide standards regarding the non-communicative aspects of signs, which are consistent with city, county, state and federal law;
- S. Ensure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs.
- T. Ensure that the constitutional guaranteed right of free speech is protected. Applications will be reviewed only with respect to sign structure or placement, excluding any reference to message, category, subject, topic or viewpoint.
- U. Reduce the Impact of Sign Clutter. Excessive signage and sign clutter impair legibility and undermine the effectiveness of governmental signs, Traffic Control Devices and other required signs (such as building, unit or house number signs, street identification signs, and building identity signs) that are essential to identifying locations for the delivery of emergency services, mail and package delivery, and other compelling governmental purposes. The intent of these sign regulations is to enhance the visual environment of the City, ensure that City residents and visitors can safely navigate through the City to their intended destinations, and promote the continued well-being of the City. It is therefore the purpose of this Chapter to promote aesthetics and the public health, safety and general welfare, and assure the adequate provision of light and air within the City through reasonable, consistent and nondiscriminatory standards for the posting, displaying, erection, use, and maintenance of signs and sign structures that are no more restrictive than necessary to achieve these governmental interests.
- V. Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs.

(2) Where there is conflict between this chapter and other sections of this Code, the most restrictive regulations shall apply.

(3) This chapter does not regulate government signs on government property.

12.01.02. *Applicability.* These regulations apply to signs within residential and nonresidential areas. Signs shall be erected, placed, established, painted, created, and maintained in the City only in conformance with the regulations, procedures, exemptions, and other requirements of this chapter and pursuant to City standards and the Florida Building Code.

12.01.03. *Effect.* The effect of this chapter is to prohibit all signs not expressly allowed in this Code, except as approved through the variance process established herein and in Chapter 2.

12.01.04. *Definitions.* Words and phrases used in this chapter are defined in Chapter 14 (Glossary).

## Sec. 12.02. - Sign Permits.

12.02.01. *Permit required.*

A. It is prohibited and unlawful for any person to erect, construct, alter, or relocate within the corporate City, any sign without first obtaining a sign permit, except as otherwise specified in this chapter. Applications shall be filed in accordance with City standards.

~~B. The owner of each sign shall obtain a separate sign permit and shall be compliant with an approved signage program as described in Subsection 12.02.02~~

~~B.C.~~ When considering the placement of freestanding signs, the Land Use Administrator shall consider the location of public utilities, sidewalks, and future street widening.

~~C.D.~~ The sign permit application shall be reviewed for a determination of whether the proposed sign meets the applicable requirements of this section and any applicable zoning law. The review of a completed sign permit application shall be completed within ten calendar days.

## Sec. 12.03. - Exempt and Prohibited Signs.

12.03.01. ~~*Exemption from permitting signs.*~~ The following signs ~~are shall be~~ exempt from ~~sign permit requirements; the requirements of this chapter;~~ however they shall meet all other code requirements, including applicable construction regulations, and electrical permits as determined by the adopted electrical code:

- ~~A. Temporary Signs. For each parcel in multifamily residential district and in a nonresidential district, three flags not greater than 24 square feet in sign area (each) may be displayed;~~
- ~~B. One free expression sign four square feet or less in sign area for each parcel within the City with the written permission of the property owner;~~
- ~~B.C. Signs required by federal or state law;~~
- ~~C.D. A sign (except a window sign which shall be subject to the provisions of this section) located entirely inside the premises of a building or enclosed space;~~
- ~~D.E. A motor vehicle sign, other than a prohibited vehicle sign or signs, as set forth in Subsection 12.03.02;~~
- ~~F. Traffic control devices required or allowed by the Florida Department of Transportation Traffic Control Manual;~~
- ~~E.G. The change of copy on permitted manually changeable copy signs;~~
- ~~F.H. For 911; and emergency response systems, and public safety purposes street address signs and residential mailboxes; For each parcel within the City, one attached wall street address sign shall be displayed. For parcels in residential use, the street address shall not exceed two square feet in sign copy area. For each parcel in nonresidential use, the street address sign shall not exceed four square feet in sign copy area. In addition to the street~~

~~address signs, each residence in the City with a freestanding mailbox shall be allowed a sign with the address of the property affixed to the mailbox if the sign is no larger than one side of the mailbox.~~

~~G.I. For 911 and emergency response systems, signs which identify the occupant. For each residence, business or other occupancy within the City, one attached wall sign may be displayed. For residences, the occupant identification signs shall not exceed two square feet in sign copy area. For any nonresidential use, the occupant identification sign shall not exceed four square feet in sign copy area;~~

~~H.J. Machinery and equipment signs. Machinery and equipment signs shall be allowed in all districts; and~~

~~K. Temporary window and door signs;~~

~~I.E. Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property; Warning signs, such as "No Trespassing" and "Keep Out" measuring two square feet or less.~~

~~J. Signs protected by state statutes; and~~

K. Signs regulated by state statute. Sign applicants claiming an element of their proposed sign is regulated by F.S. § 553.79(22), as may be amended from time to time, must include all supporting documentation with their application and a clear and concise statement of regulatory applicability for review.

12.03.02. Prohibited signs. Except as required by state law or otherwise permitted by this Article, any sign installed or placed on public property shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies, the City shall have the right to recover damages from the owner or person placing such sign. It is prohibited and unlawful to erect or maintain any sign not specifically authorized by this chapter, including:

- A. Signs that are in violation of the building code or electrical code adopted by the City;
- B. Any sign that constitutes a traffic hazard or a detriment to traffic safety, as determined by accepted engineering standards, by reason of its size, location, movement, content, coloring, or intensity of illumination;
- C. ~~Specifically prohibited are signs using:~~
  - ~~1. Signs using lights or illuminations that flash, move, rotate, blink, flicker, or vary in intensity or color and stock tickers, except when required by the Federal Aviation Authority;~~
  - ~~2. Signs using bare exposed incandescent or LED bulbs in excess of 11 watts;~~
  - ~~3. Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way or that are a hazard or a nuisance to occupants of any property because of glare or other characteristics;~~



- 4F. Pursuant to state law, signs using words and traffic control symbols which interfere with, mislead, or confuse traffic, such as "stop", "look", "caution", "danger", "slow", or which violate with the Manual on Uniform Traffic Control Devices (MUTCD);
- 5G. Signs that resemble any official sign or marker erected by any governmental agency or that by reason of position, shape, or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, color, or illumination that may be reasonably confused with or construed as, or conceal, a traffic control device; ~~and~~
- 6H. Signs within ten feet of public rights-of-way or 100 feet of traffic control lights that contain red or green lights that might be confused with traffic control lights; ~~;~~
- ~~D~~I. ~~Non~~governmental ~~s~~Signs attached to traffic control devices or utility poles; ~~;~~
- ~~E~~J. Signs attached to trees; ~~;~~
- ~~F~~K. Signs made of combustible materials that are attached to or located within 20 feet of fire escapes or firefighting equipment; ~~;~~
- ~~G~~L. Signs that obstruct a fire escape, window, door, or other opening used as a means of ventilation, ingress, or egress; ~~;~~
- ~~H~~M. Any type of balloon signage; ~~;~~
- ~~I~~N. Signs that incorporate projected images; ~~;~~
- ~~J~~O. Signs that involve the use of live animals ~~and/or human beings~~; ~~;~~
- ~~K~~P. Signs that emit audible sound, odor, or visible matter such as smoke or steam; ~~;~~
- ~~L~~Q. Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television, or other communication signals; ~~;~~
- ~~M~~R. Signs that are painted, pasted, or printed on buildings or any curbstone, flagstone, pavement, or any portion of any sidewalk or street, except house numbers and traffic control signs required by law; ~~;~~
- ~~N~~S. Off-site signs; ~~unless otherwise specifically allowed in this chapter~~
- ~~O~~T. Banners or signs placed across any public street, park, or property; ~~unless specifically permitted in this chapter~~; ~~;~~
- ~~P~~U. Private signs erected within any navigable waterway within the City; ~~;~~
- ~~Q~~V. Portable signs, except as provided in this Chapter; ~~;~~
- ~~R~~W. Roof, marquee, and pole/pylon signs; ~~;~~
- ~~S~~X. Abandoned signs; ~~;~~
- ~~T~~. ~~Signs containing statements, words, or pictures of an obscene nature.~~
- ~~U~~Y. Paper, cardboard, chalk, or white-board signs, except as allowed in this chapter; ~~;~~
- ~~V~~Z. Exposed neon or LED signs; ~~;~~
- ~~W~~AA. Animated signs, including, flashing, undulating, swinging, rotating, or otherwise moving or scrolling signs ~~or other decorations such as banners, pennants, ribbons,~~

~~spinners, streamers, or captive balloons, or other inflatable signs, or devices designed to attract attention unless permitted as a temporary sign.;~~

~~XBB.~~ Electronic display type signs, including time and/or temperature signs, or any sign displaying any type of screen using animated or scrolling displays, such as a LED (light-emitting diode) screen or any other type of video display, even if the message is stationary; or signs displaying alternating or intermittent lights or lights of changing degrees of intensity or changes. Signs that have multiple views and objects that digitally or electronically produce color and/or black and white images similar to a television screen are prohibited. In addition, signs may not be multivision signs or display devices capable of presenting two or more separate images or ad copy sequentially by rotating multi-sided cylinders.;

~~YCC.~~ Any sign or illumination that causes any direct glare into or upon any building, other than the building to which the sign may be related.;

~~ZDD.~~ A-frame signs, except as provided in this Chapter.;

~~AAEE.~~ Any sign located within a right-of-way, except as may be allowed by this chapter.;

~~BBFF.~~ Signs as a principal use in any zoning district, ~~except as may be allowed by this chapter.;~~

~~CCGG.~~ Snipe signs.;

~~DDHH.~~ Signs mounted to fences except as permitted in this chapter.;

~~EEII.~~ Parasite signs.;

~~FFJJ.~~ Motor vehicle signs or any signs attached thereto or placed thereon subject to the following exceptions:

1. Any vehicle appropriately parked on private property so long as the vehicle is used regularly, is only parked while not in use, and is not intentionally parked on the private property for the sole purpose of displaying the sign on the vehicle.
2. Any vehicle appropriately parked in a non-residential area upon which is placed a sign, ~~identifying the firm or its principal~~ if such vehicle is one that is operated during the normal course of business; provided, however, that no such vehicle shall be routinely parked in a location for the purpose of serving as, or constituting, additional signage.
3. Buses, taxicabs, and similar common carrier vehicles that are licensed or certified by the City of Palm Coast, Flagler County, other governmental entities, and/or Florida Public Service Commission

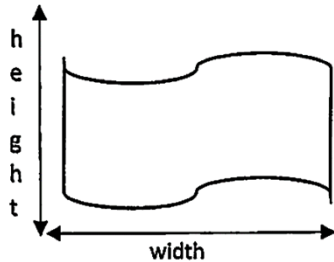
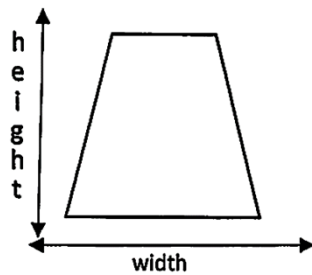
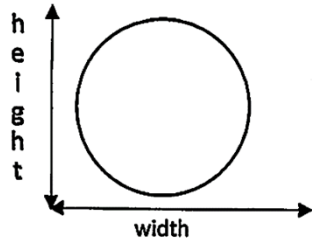
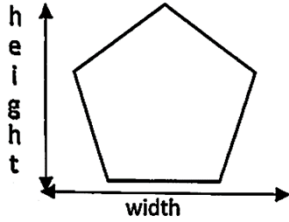
KK. Permanent commercial signs on lots without a principal use.

LL. Pole signs.

Sec. 12.04. – ~~General Sign Provisions~~ for Permanent Signs.

12.04.01 *Calculating sign area.*

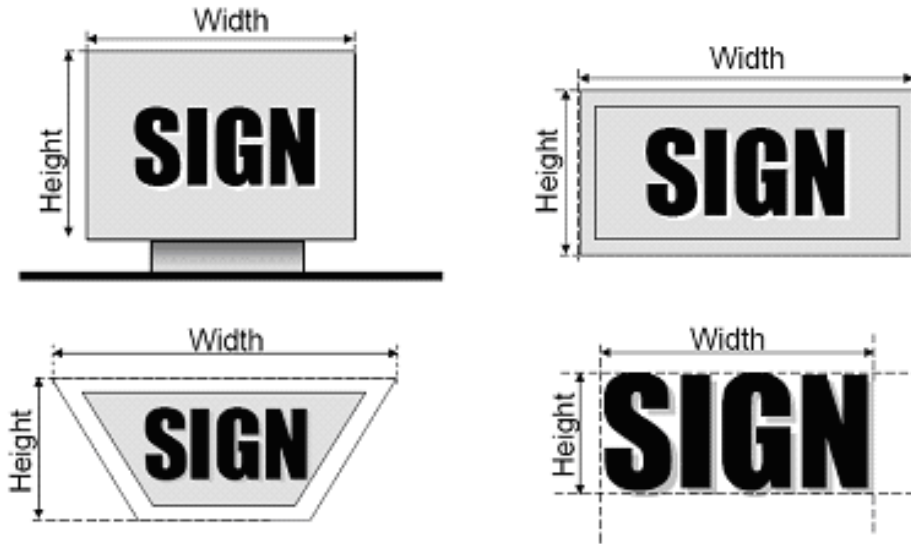
- A. In computing sign area, standard geometry formulas for common shapes shall be used. Common shapes shall include squares, rectangles, trapezoids, circles, and triangles. In the case of irregular shapes, the total sign area will be the area of the smallest common shape that encompasses the various components of the sign (see graphic below).



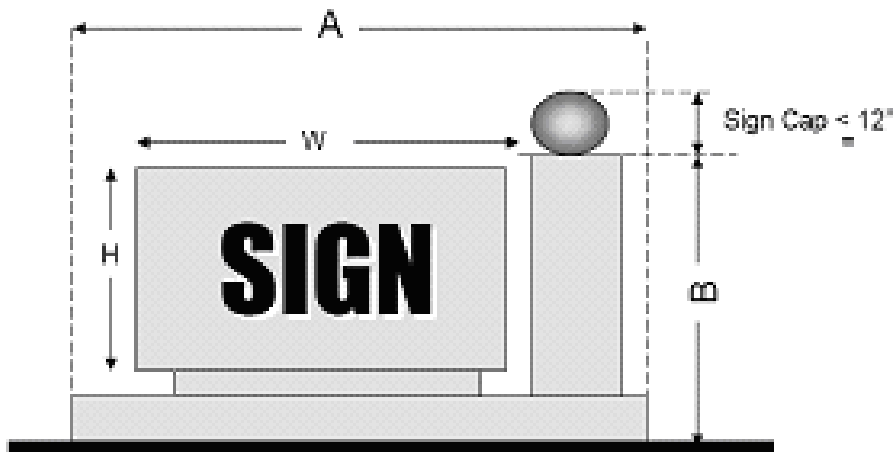
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[ABOVE PICTURES ARE NEW TEXT TO THE CODE]

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- B. All words and components of a sign, including the support base of freestanding signs, shall be deemed to be part of a single sign. Individual words or components may be considered separate signs only if they are obviously disassociated from other components. When signs are enclosed in a border (not to include the cabinet) or highlighted by background graphics, the perimeter of such border (not to include the cabinet) or background will be used to compute sign area. Double face signs that meet the definition contained in this chapter shall be considered one sign.
- C. The aggregate sign area of freestanding signs shall not be more than double of the proposed sign area, exclusive of the sign area, only to include architectural features. See graphics below.



Sign Area =  $W \times H$   
 Aggregate Sign Area =  $A \times B$

\*Graphics is not to scale

- D. The allowable size of some freestanding signs is determined based on lot frontage (i.e., the width of a site along a public street). The allowable size of some wall signs is calculated based on the building frontage (i.e., width of the building façade where the public entrance is located).

12.04.02. *Measuring sign height/clearance.*

- A. Freestanding sign height shall be measured from the ground elevation at the base of the sign to the highest point of the sign structure. The maximum height of permanent freestanding signs shall be 7 feet, unless otherwise specified in this code. Decorative column caps may extend up to 12 inches above the maximum height permitted.
- B. The clearance of a projecting sign shall be measured from the bottom of the area to the ground below.
- C. The height of a wall sign shall be measured from the grade level of the base of the building below the sign to the top of the sign. The top of the area shall be no higher than the roof eave line.

12.04.03. *Construction and maintenance requirements.*

- A. Except for ~~banners, flags,~~ temporary signs and window signs conforming in all respects with the requirements of this Code, all signs shall be constructed of durable materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- B. All signs and their supports, braces, guys, and anchors; electrical parts and lighting fixtures; and all painted and display areas shall be maintained in good structural condition, in compliance with all building and electrical codes and in conformance with this Code at all times. Damaged faces or structural members shall be promptly removed or replaced.
- C. Vegetation around, in front of, behind, and at the base of any sign shall be installed and maintained and neatly trimmed to conform to City landscape maintenance standards.
- D. All signs shall maintain a minimum clearance from electric power lines of ten feet horizontally and 15 feet vertically or as otherwise directed by the utility provider.
- E. No sign structure or framework may be exposed to public view due to ~~by~~ removal of sign faces or advertising copy for a period in excess of 15 days.

12.04.04. *Existing signs.*

- A. *Modifications to signs.* Modifications to signs shall not result in a sign that violates the requirements of this Code. The modification of sign height or size requires sign permit approval.
- B. *Permits not required for change of sign copy.* No permit or permit fee shall be required for changing the copy of a sign, as long as no changes are made to the sign's height, size, location, or structure. This exemption shall also apply to any change of copy on a changeable copy sign. ~~However, a change in sign color requires approval from the Land Use Administrator.~~ However, a color change to the base of a sign must be aesthetically compatible with the associated primary structure.



- C. *Nonconforming signs.* Signs lawfully existing prior to the effective date of this Code may be continued although their size, location, or other physical attributes do not conform to this chapter.
- D. *Loss of legal nonconforming status of a sign.* A sign loses its legal nonconforming status and shall be considered in violation of this Code if one or more of the following occurs:
1. The sign is structurally altered in any way, including increasing its height, weight, width, depth, or enlarging it in any manner, except for normal maintenance or repair, which tends to or makes the sign less in compliance with the requirements of this chapter than it was before the alteration.
  2. The sign is destroyed to such an extent that more than 60 percent of the upright supports of a sign structure are physically damaged such that normal repair practices of the industry would call for, in the case of wooden sign structures, replacement of the broken supports and, in the case of a metal sign structure, replacement of at least 25 percent of the length above ground of each broken, bent, or twisted support. A sign will not be considered "destroyed" within the meaning of this section where the destruction is caused by vandalism or other criminal or tortious act.
  3. Signs determined to be abandoned under the provisions of Subsection 12.04.04.E of this section.
- E. *Abandonment.* All nonconforming signs and sign messages shall be removed by the owner or lessee of the premises upon which an on-site sign is located when the business it advertises is no longer conducted. Conforming signs shall have the copy area face removed and replaced with a blank face. Said signs on vacant or unoccupied property must be removed after 30 days. Any sign face which advertises a service no longer conducted or product no longer sold upon the property must be removed after 30 days. If the owner or lessee fails to remove the sign or sign message, the sign or sign message shall be deemed in violation of this Code.
- F. *Signs subject to immediate removal.* Any sign erected without a required building permit is unlawful and must be removed by the owner thereof.
- G. *Off-site signs.* Existing off-site signs may not be converted to electronic display type signs.

12.04.05. *Sign design.* Freestanding signs shall be aesthetically compatible with the principal structure, shopping center or subdivision.

12.04.06. *Lighting of signs.*

- A. Any lighting used to illuminate signs shall be shielded such that the light source cannot be seen from abutting roads or properties.
- B. No unshielded light source may be visible from the edge of the public right-of-way at a height of three feet.
- C. Sign lighting shall not be designed or located to cause confusion with traffic lights.

- D. Illumination by floodlights or spotlights is permissible if none of the light emitted shines directly onto an adjoining property or into the eyes of the motorist using or entering public streets.
- E. Illuminated signs shall have luminance no greater than 300 foot candles.
- F. Illuminated signs shall not have lighting mechanisms that project more than 18 inches perpendicularly from any surface of the sign over public space.
- G. Backlit awnings are prohibited.

12.04.07. *Sign location criteria.* The following location standards shall apply to all signs, unless stated otherwise in this chapter.

A. Freestanding signs.

- 1. Freestanding signs shall only be allowed on sites with a frontage of 50 feet or more.
- 2. Unless specifically noted in this chapter, signs shall be located wholly within the premises, and shall maintain a minimum setback of ten feet from all property lines. ~~However, no sign shall be allowed within an easement not designated to include signs, or within a sight triangle.~~ Signs may be allowed within an easement unless it is in conflict with the purpose of the easement.
- 3. No freestanding sign shall be located closer than 15 feet from any other freestanding sign, on or off the premises. On corner lots, the freestanding signs on each frontage shall be at least 100 feet apart, measured along the rights-of-way. This requirement does not apply to temporary signs.
- 4. Freestanding signs shall include landscaping around the base of the sign as required in Chapter 11. The plant material shall be selected to complement and enhance the sign.
- 5. Signs in nonresidential districts shall not be located closer than 50 feet from a residential zoning district except signs on property where the principal use is allowed outright or by special exception in that residential district. ~~advertising uses allowed outright or by special exception in that residential district and conforming to the section of this chapter relating to that use.~~

B. Other signs.

- 1. Wall signs shall not exceed 75 percent of the width of the wall where they are placed, except if business is occupying more than one unit and no other wall signs will be placed on the adjoining unit(s) or if there are architectural elements separating facades where signs would be located.
- 2. Wall signs shall not cover windows and shall preserve the architectural integrity of the building.

3. No wall sign shall extend above the roofline except where an exterior parapet wall projects above the roofline, in which case, such sign may not extend above the top edge of the parapet.
4. Wall signs on multistory buildings are allowed above the first floor.
5. Wall signs shall not be allowed within 50 feet of a residential district, if facing a residential zoning district, unless it is a mixed use district.
6. A projecting sign shall be erected only on a wall of a building, and shall not project out more than four feet. Projecting signs over a parking space, travel lane, or a driveway shall have a minimum clearance from finished grade of 14 feet to the bottom of the sign.
7. Projecting signs that extend over a sidewalk or walkway shall provide a clearance of eight feet between the finished grade and the bottom of the sign.
8. Awning lettering shall be placed on the awning valance and not on the vertical arc or diagonal portion of the awning. The awning material may include a design pattern.
9. Directory signs, for emergency and traffic circulation purposes, may be attached to a wall or be freestanding, but shall not be located within ~~50~~ 10 feet of any public right-of-way line.

12.04.08. Flagpoles. Flagpoles are allowed subject to the following conditions:

- A. Two ~~One~~ flagpoles are is allowed on each parcel parcel/lot having less than 100' of road frontage. Three flagpoles are permitted on lots having 100' or greater of road frontage in the City.
- B. Maximum pole height shall be 30 feet in nonresidential districts, and 25 feet in residential districts.
- C. All poles shall be ground mounted.
- D. All flagpoles shall have a minimum five-foot setback from the property lines.

Sec. 12.05. - Permitted Permanent Signs.

This section establishes the type, location, and size of signs allowed within residential and nonresidential zoned districts.

12.05.01. *Residential zoning districts.*

- A. Monument Entrance signs at entrances. Residential subdivisions and residential multitenant developments may erect ~~a development entrance signs~~ meeting the following requirements at the entrance to the subdivision or multi-tenant development:

1. *Number of signs.* One double-sided freestanding sign or two identical single-sided signs, one on each side of the entrance, are allowed at each entrance to the development (excluding emergency access entrances).
  2. *Maximum sign area.* The total sign area for each entrance sign shall not exceed 32 square feet.
    - a. Signs that are combined with a minimum of two architectural embellishments, such as decorative walls, artificial rock formations, waterfalls, lake/pond mounted signs, signs located on grandiose entrance roads or other similar aesthetic features may qualify for an increase of signage square footage up to 64 square feet, and increase in height up to 14 feet, as approved by the land use administrator.
  - ~~3. *Sign location.* Signs shall be located on a tract or parcel or easement designated for signage purposes. Such tract or parcel shall be owned and maintained by a common property association and shall be located at the entrance of the subdivision or multitenant complex.~~
  - 4.3. *Maximum height.* Maximum sign height shall be seven feet. See 12.05.01.A.2.a for possible increase in height.
- B. Signs for nonresidential uses. Except for those signs and sign-types allowed in residential and residentially zoned districts in accordance with Subsection 12.05.01.A, no additional permanent signs or sign-types shall be allowed for permitted nonresidential uses in residential or residentially zoned districts, except for the following sign-types:
1. Freestanding sign. One double-sided freestanding sign meeting the following:
    - a. The total sign area shall not exceed 24 square feet.
    - b. Signs shall not exceed ~~six~~ seven feet in height.
  2. Wall sign. Nonresidential uses permitted in residential districts pursuant to Table 3-2 of the LDC are allowed one wall sign per business. Such sign shall be included in the sign area calculation noted in Subsection 12.05.01.B.1. No other signs are permitted on the building, except signs to identify the number and address of the property, for 911 and emergency response systems and public safety purposes.
- C. Directional signs. Directional signs are allowed in residential districts subject to the following requirements:
1. ~~Directional signs to assist onsite vehicular traffic flow shall be~~ Signs to assist onsite traffic must be low-profile signs not to exceed three feet in height above grade and four-square feet of surface area, ~~with the legend to be affixed thereon to include arrows and the words "enter" or "exit" as appropriate so that public safety personnel can easily identify addresses and to ensure proper traffic flow.~~

2. All such ~~directional~~ signs shall be of consistent size, font, and color.

12.05.02. *Nonresidential zoning districts.* The following regulations shall apply to signs within nonresidential zoning districts, ~~however electronic game promotion all signs shall also comply with Chapter 16, Article IX, in the City of Palm Coast Code of Ordinances and F.S. ch. 166.~~

A. ~~Subdivision entrance signs.~~ Monument signs at entrances.

1. Number of signs. One double-sided freestanding sign or two identical single-sided freestanding signs, one on each side of the entrance, are allowed at each entrance to the development (excluding emergency access entrances).
2. *Maximum sign area.* The sign shall ~~only display the name of the subdivision and shall not exceed a sign area of 32 square feet~~ per sign.
3. ~~Sign location. Signs shall be located on a tract or parcel or easement designated for signage purposes. Such tract or parcel shall be owned and maintained by a common property association and shall be located at the entrance of the subdivision or multitenant complex.~~
3. *Maximum height.* Maximum sign height shall be seven feet. A maximum of 12 inches cap on a column is allowed in addition to the maximum sign height.

B. Freestanding sign. Freestanding signs are allowed provided they are monument signs that meet the following requirements:

1. Single use developments.
  - a. Number of signs. One freestanding sign is allowed per lot frontage facing a street.
  - b. Maximum sign area. Thirty-two square feet for the first 100 feet of lot frontage, plus one square foot for each four lineal feet thereafter, to a maximum size of 96 square feet for each sign.
  - c. Maximum height. Maximum sign height is seven feet.
2. Multitenant development. Multitenant developments such as shopping centers, mixed use developments, small retail centers, and office parks shall comply with the following standards:
  - a. Number of signs. The main development/center and each outparcel may have one freestanding sign per frontage on a public street. ~~The main development/center sign shall identify the center. Center name may be placed in the aggregate sign area of the sign and not counted towards the sign area.~~ One additional freestanding sign may be allowed on parcels within a shopping center development containing a Mid-Scale Retailer or a Large-Scale Retailer and an approved Signage program.



- b. Maximum sign area. The maximum sign area permitted for freestanding signs for the main development shall be calculated based on the street frontage for the entire development site (including outparcels), using the formula noted above for single use signs. ~~The total size allowed may be divided among the center and the various outparcels fronting the street located within the master development site with a development order. The development order shall specify how the sign area will be divided amongst those qualifying and proposing to use a freestanding sign.~~ Developments that do not have outparcels or outparcels that are not part of the development order sign criteria shall calculate the maximum sign area using the formula noted above as a single use sign.
- c. Maximum height. Maximum sign height shall be seven feet.
- d. ~~Sign plan.~~
1. ~~At master site plan application, developments shall include a conceptual wall sign plan showing consistency between architectural elements, designs, and themes for freestanding, wall, and where applicable, directory and directional signs throughout the planned development. The conceptual sign plan shall contain sufficient detail to address sign pattern, style, color, illumination, and locations(s). To encourage flexibility in the overall design of the master site plan project, up to 20 percent of total wall sign allowance on the street front facade can be transferred to the freestanding sign provided the request is depicted in a sign plan, the total size of the freestanding sign does not exceed 115 square feet, and is included in the development order. All other signs shall be in compliance with Chapter 12 of the LDC.~~
  2. ~~At site plan application, multitenant developments shall include a sign plan for all freestanding, wall, and where applicable, directory and directional signs throughout the development that identifies sign style and locations consistent with the architectural theme and architectural integrity of the proposed building(s). The sign plan shall be compatible with other sites within a master site plan development. The sign plan shall be part of the site plan development order with approved elevation plans and site plan showing the sign locations to include visual details of sign patterns, style, illuminations, and landscaping. Signs shall be in compliance with Chapter 12 of the LDC.~~
    - a. ~~Wall signs. Wall signs with similar style sign casings and/or framings or architectural designated locations and illuminations are encouraged. Wall signs may have minor adjustments in location and size due to unit resizing or unit combining, but the overall architectural integrity of the building(s) and theme of the sign plan shall be maintained.~~
    - b. ~~Freestanding signs. Freestanding signs are to be compatible with the proposed architectural design and landscaping.~~

C. Wall signs. Wall signs are allowed provided they meet the requirements of Subsection 12.04.07 (Sign Location Criteria) and the following requirements:

1. Maximum sign area. Each individual business having a separate building entrance shall be permitted one wall sign per street frontage including awning and projecting signs. If the business has a customer entrance on a separate building elevation not facing a street, an additional wall sign meeting the maximum sign area requirements may be permitted for that elevation. Signs shall be subject to the following maximum square footages:

Table 12-1: Permitted Maximum Wall Sign Area in a Nonresidential District

Business Frontage (Linear Feet)	Area (Square Feet)
25 or less	32
26—50	50
51—100	75
101—150	90
151—200	110
201 or more	150

2. Buildings with shared space and one entrance. A building with a common entrance for multiple tenants may share wall signage with all tenants if the owner submits a master signage plan that complies with Table 12-1. The owner may share the allocation allotted under Table 12-1 among three separate signs so long as the total square footage does not exceed Table 12-1 and meets the requirements of 12.04.07. If the allocation is used for multiple signs, all signs must be consistent with the approved signage plan. Signs must be of same style, size, font and color.
3. Large-scale retailers. Large-scale retailers, as defined in Chapter 14, may have one major wall sign and ~~three~~ four minor wall signs. The major wall sign shall not exceed the maximum square footage depicted in Table 12-1. The minor wall signs shall not exceed ~~32~~ 24 square feet each.
4. Mid-Scale Retailers. Mid-Scale Retailers that are part of a shopping center will be allowed a major wall sign and 2 minor wall signs. The major wall sign shall

not exceed the maximum square footage depicted in Table 12-1. The minor wall signs shall not exceed 24 square feet each.

- ~~3.5.~~ *Canopies.* No additional sign area is permitted for canopies over fuel operations. However, permitted wall sign area for the principal structure or building may be transferred to the canopy, as long as the canopy signage is only situated on the sides of the canopy facing a right-of-way. This does not apply to required signage pertaining to safety or hazardous situations.
- 4.6. *Window signage.* Window signage, including temporary window signs, shall not exceed 35 percent of the total glass surface area of any one building elevation.
- D. *Directory Signage:* ~~Directory signage~~ Permanent directory signs designed to assist 911 and emergency response systems, pedestrian circulation and traffic circulation shall comply with the following requirements:
1. Sign area for each sign cannot exceed a maximum size of 24 square feet and not more than two signs per building.
  2. Maximum sign area of 24 square feet applies to both freestanding and wall signs.
  3. If freestanding signs are used, the sign height shall be limited to six feet.
  - 3.4. All ~~directory~~ signs shall be consistent with building aesthetics.
- E. *Under-canopy sign.* Each tenant within a multitenant development shall be allowed one under-canopy sign. The under-canopy sign area shall not be counted toward the maximum wall sign area allowed. ~~The sign shall display the name of the business only.~~
1. The sign shall be no larger than six square feet.
  2. The sign shall be rigidly supported by a decorative chain or bracket and the bottom of the sign shall have minimum clearance of eight feet above the sidewalk.
  3. The sign shall be designed aesthetically compatible with the principal structure.
- F. *Directional signage for Emergency Services Purposes.* In addition to the other types of signs allowed on a site, directional signs designed to assist 911 and emergency response systems and traffic circulation are allowed subject to the following requirements:
1. Directional signs to assist onsite vehicular traffic flow shall be low-profile signs not to exceed three feet in height above grade and four square feet of surface area, ~~with the legend to be affixed thereon to include arrows and the words "enter" or "exit" as appropriate.~~
  2. All directional signs shall be of consistent size, font, and color.
- G. *Flagpoles.* Refer to Subsection 12.04.08.

H. Signs facing drive-through lanes. Drive-through menu board and speakers. Drive-through restaurants are allowed to display ~~menu boards~~ drive-through lane signs subject to the following provisions:

1. Each restaurant may display up to two freestanding ~~menu~~ compatible signs per drive-through, which shall be adjacent to and oriented toward the drive-through area.
2. The sign area—Menu boards may be a maximum of 30 square feet in total, with a maximum height of six feet.
3. If two signs are located side by side, the total sign area may be shared and increased to 45 square feet if the Land Use Administrator determines it to be preferable from a safety perspective.
4. Supporting ancillary equipment is allowed, such as speakers and order confirmation devices. These devices, when combined with a cabinet, must not exceed the maximum height requirements of the signs.

I. ~~Wayfinding sign. May only be installed by the City.~~

I. Signage program.

1. At master site plan application, developments shall include a conceptual signage program showing consistency between architectural elements, designs, and themes for freestanding, wall, and all other signs throughout the planned development. The conceptual signage program shall contain sufficient detail to address sign pattern, style, color, and locations(s). To encourage flexibility in the overall design of the master site plan project, up to 20 percent of total wall sign allowance on the street front facade can be transferred to the freestanding sign provided the request is depicted in a signage program, the total size of the freestanding sign does not exceed 115 square feet, and is included in the development order. All other signs shall be in compliance with Chapter 12 of the LDC.
2. At site plan application, multitenant developments shall include a signage program for all freestanding, wall, and other signs throughout the development that identifies sign style and locations consistent with the architectural theme and architectural integrity of the proposed building(s). The signage program shall be compatible with other sites within a master site plan development. The signage program shall be part of the site plan development order with approved elevation plans and site plan showing the sign locations to include visual details of sign patterns, style, and landscaping. Signs shall be in compliance with Chapter 12 of the LDC.
  - a. Wall signs. Wall signs with similar style sign casings and/or framings or architectural designated locations and illuminations are encouraged. Wall signs may have minor adjustments in

location and size due to unit resizing or unit combining, but the overall architectural integrity of the building(s) and theme of the sign plan shall be maintained.

- b. Freestanding signs. Freestanding signs are to be compatible with the proposed architectural design and landscaping.

Sec. 12.06. - Temporary Signs.<sup>1</sup>

12.06.01 Temporary Sign Standards.

<b><u>A. NON RESIDENTIALLY ZONED PROPERTIES' TEMPORARY SIGN STANDARDS</u></b>				
<u>Sign type</u>	<u>Number of signs</u>	<u>Maximum sign area and height (The sign areas provided are cumulative for the number of signs allowed)</u>	<u>Time</u>	<u>Additional standards</u>
<u>Commercial signs</u>	<u>One banner sign per business.</u>	<u>Limited to height of building.</u>	<u>Remove after 30 consecutive days</u>	<u>1. No more than three times per year. 2.No permit is required.</u>
<u>Non-commercial signs</u>	<u>Four per business</u>	<u>Area: Lots less than 1 acre – 16 sf 1.1 acres to 10 acres – 32 sf More than 10 acres – 48 sf</u>  <u>Limit 7' in height</u>	<u>If associated with an event, remove 15 calendar days after the event.</u>	<u>Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.</u>
<u>Signs for parcels with active Site/building permits</u>	<u>Two visible from rights-of-way adjacent to lot.</u>	<u>Area: Lots less than 1 acre – -16 sf  1.1 acres to 10 acres – 32 sf  More than 10 acres – 48 sf</u>	<u>Remove within 3 calendar days after issuance of a final inspection or certificate of occupancy.</u>	<u>Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines. 3. Maximum 1 sign facing each public right of way.</u>



		<u>Height: 7 ft max height</u>		<u>4. Can divide sign allowance between 2 different signs.</u>
<u>Signs on property being actively marketed for sale, rent or lease</u>	<u>Two visible from rights-of-way adjacent to lot.</u>	<u>Area: Lots less than 1 acre – 16sf</u> <u>1.1 acres to 10 acres – 32 sf</u> <u>More than 10 acres – 48 sf</u> <u>Height: 7 ft.</u>	<u>Remove within 3 calendar days after sale or lease.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>

**B. RESIDENTIALLY ZONED PROPERTIES’ TEMPORARY SIGN STANDARDS**

<u>Sign Type</u>	<u>Number of Signs</u>	<u>Maximum Sign Area and Height (The sign areas provided are cumulative for the number of signs allowed)</u>	<u>Time</u>	<u>Permit Requirements and Additional standards</u>
<u>Non-commercial signs</u>	<u>Six</u>	<u>Area: 6 sf</u> <u>Height: 6 ft</u>	<u>If associated with an event, remove 15 calendar days after the event.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>
<u>Signs for parcels with active site/building permits</u>	<u>One per lot</u>	<u>Area: Lots less than 1 acre – 4 sf</u> <u>1.1 acres to 10 acres – 12 sf</u> <u>More than 10 acres – 32 sf</u>  <u>Height: 7 ft max height</u>	<u>Remove within 3 calendar days after issuance of a final inspection or certificate of completion.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>
<u>Signs on property being actively marketed for sale, rent or lease, single family zoning.</u>	<u>Two visible from rights-of-way adjacent to lot; one additional sign (per property) only when the premises are available for inspection by the prospective buyer or tenant;</u>	<u>Area: 6 sf per street frontage</u> <u>Height: 6 ft.</u>	<u>Remove within 3 calendar days of sale or lease.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u>

<u>Signs on property being actively marketed for sale, rent or lease, multi-family zoning</u>	<u>said additional sign shall not be larger than 9 sf and may only be posted on private property with the permission of the property owner</u>	<u>Area: 24 sf Height: 7 ft</u>		<u>2. 15 ft. from side property lines.</u>
<u>Signs on properties with a sale on the property</u>  <u>(not defined above)</u>	<u>One per street frontage</u>	<u>Area: 6 sf Height: 6 ft</u>	<u>Remove within 3 calendar days after the event.</u>	

Footnote 1: However, see ULDR Sections 4.01.01 and 12.04.07. A.2 prohibiting signs in City easements.

12.06.01. ~~Construction site signs. Construction site signs, which may include temporary subdivision signs, are permitted for each project as follows:~~

A. ~~Number. One general sign per site.~~

B. ~~Sign area. The maximum sign square footage for single family and duplex residential lots shall not exceed six square feet. The maximum sign area allowed for other uses is based on parcel size as follows:~~

Table 12-2: Permitted Construction Sign Area

Parcel Size	Maximum Area
Less than 1 acre	12 sq. ft.
1.1 acres to 10 acres	32 sq. ft.
More than 10 acres	48 sq. ft.

C. ~~Sign height. Seven feet maximum.~~

D. ~~Setback.~~

1. ~~A minimum of five feet from property line abutting any street.~~

2. ~~A minimum of 25 feet from side property lines or equidistant between side property lines.~~

~~E. — Duration. Construction site signs shall not be erected prior to the issuance of a building permit and shall be removed within three calendar days after issuance of a certificate of occupancy. Such signs shall be removed immediately if construction has not begun after 60 calendar days from issuance of a building permit or if construction is halted thereafter for a period of more than 60 calendar days.~~

~~12.06.02. Garage sale signs. Residentially zoned properties may display up to one garage sale sign per street frontage. The sign(s) shall not exceed four square feet each and shall be displayed on the premises of which the sale is to be held. The sign shall not be located within the rights-of-way.~~

~~12.06.03. Political signs. Political campaign signs or posters are permitted in all zoning districts and shall comply with the following:~~

~~A. — Posting of political signs.~~

~~1. — Placement of political signs on private property may occur only with the expressed consent of the property owner.~~

~~2. — It is prohibited and unlawful to place a political sign on or within public rights-of-way or public property.~~

~~3. — Setback shall be two feet from public rights-of-way and 15 feet from side property lines and shall not be located within any sight triangle.~~

~~4. — Political signs placed in residential districts shall not exceed six square feet in size and shall not exceed five feet in height.~~

~~5. — Political signs placed in nonresidential districts shall not exceed 16 square feet in size and shall not exceed ten feet in height.~~

~~B. — Removal of political signs.~~

~~1. — Signs shall be removed within 15 calendar days after the election or referendum to which it pertains.~~

~~2. — The removal of all political signs shall be the joint and severally responsibility of the owner of the property upon which the sign is placed and the candidate for whom such sign was placed.~~

~~12.06.04. Real estate signs.~~

~~A. — Number of signs. A maximum of one sign shall be allowed per site frontage, except that large parcels with a site frontage of 500 feet or more are allowed a maximum of two signs per~~

frontage, at least 250 feet apart. Properties represented by more than one real estate office must utilize the same sign. The total sign area, height, and location shall not exceed that permitted under Table 12-3.

B.—— Sign area. An on-site sale or rental sign that is not illuminated is allowed for each street frontage. The sale or rental sign shall comply with the following:

Table 12-3: Permitted Maximum Real Estate Sign Area

Type of Zoning District	Maximum Sign Area Per Sign
Single family and duplex residential areas	Six sq. ft. per street frontage
Residential areas for buildings with three or more units	16 sq. ft. per street frontage
Nonresidential areas	24 sq. ft. per street frontage

C.—— Sign height. A maximum height of five feet in residential districts and seven feet in nonresidential districts is allowed.

D.—— Setback. Two feet from public rights-of-way and 15 feet from side property lines.

~~12.06.05~~12.06.02. Model home and sales offices.

A. A model home is permitted to have one on-site, ground mounted, nonilluminated, freestanding sign in accordance with the following dimensional limitations:

A1. Maximum sign area of 24 square feet.

B2. Maximum height of four feet.

C3. Setback a minimum of two feet from the right-of-way and located outside of the sight triangle as defined in Chapter 5.

~~DB. Model homes that front a second right-of-way are permitted to display~~ are allowed to have one commercial or non-commercial "open" flag, with a maximum sign area of 24 square feet, set back of minimum of two feet from the right-of-way and located outside the sight triangle as defined in Chapter 5. that must be located within two feet of the freestanding sign, provided, however, that the sign may only be displayed during the model home's hours of operation.

~~EC. Model homes are not permitted to have additional permanent or temporary outdoor signage. Signage not permitted includes, but is not limited to, temporary signs advertising an open house or model home, banners, pennants, streamers, and "A-frame" signs. During hours of~~

operation, one “A-Frame” sign may be located on the model home site if in compliance with Section 12.06.03.

~~12.06.06. Banners/miscellaneous temporary signs. Banners or other miscellaneous temporary signs are allowed under the following conditions:~~

~~A. — Number of signs. No more than one banner/sign that is not illuminated shall be allowed per business frontage and no more than three signs per multitenant center at one time.~~

~~B. — Duration.~~

~~1. — In conjunction with a grand opening for a new business or use in a nonresidential zoning district, the banner/sign may be allowed to remain for a period not to exceed 30 consecutive days and must be utilized within the first three months of the new business or use.~~

~~2. — In conjunction with seasonal promotions, the sign may be displayed for the duration of the sale, as authorized in Subsection 4.19.04.~~

~~3. — In conjunction with a special event, the sign may be displayed for the duration of the event as authorized by Subsection 4.19.05. The temporary sign or banner may be installed up to 30 calendar days prior to the event and shall be removed no later than 48 hours following the closing of the event.~~

~~4. — No more than three permits may be issued for each site per calendar year.~~

~~C. — Sign area. The maximum sign area shall be 32 square feet per sign, unless as otherwise specified in this Code.~~

~~D. — Banners. Temporary banners may be allowed upon issuance of a banner permit based on guidelines provided by resolution or other action by the City Council.~~

~~E. — Temporary municipal and government signs. Temporary signs relating to municipal public purposes on City-owned property when installed to assist the public in locating City-sponsored programs or events shall be allowed.~~

~~12.06.073. A-frame signs.~~

~~A. Permissible zoning districts.~~

~~1. A-frame signs are permitted in the following all nonresidential zoning districts:~~

~~Neighborhood Commercial (COM-1)~~

~~General Commercial (COM-2)~~

~~High Intensity Commercial (COM-3)~~



~~Limited Office (OFC-1)~~

~~General Office (OFC-2)~~

2. A-frame signs may be proposed as part of a nonresidential component of a Master Planned Development (MPD) District.

B. *Criteria for A-frame signs.*

1. *Maximum number allowed.* A business with its own separate building entrance is allowed no more than one A-frame sign.
2. *Location.*
  - a. No sign may block a business entrance and/or pedestrian or vehicular traffic. Sign placement shall not interfere with the American with Disabilities Act (ADA) requirements.
  - b. The sign(s) shall not be placed in landscaped areas.
  - c. The sign(s) shall be located within ten feet of the business entrance which it serves but in no event shall the sign be located beyond the width of the business frontage.
  - d. No A-frame sign shall be secured, tethered, or installed on traffic devices, utility equipment, trees, furniture, poles, or any other fixture.
  - e. Sign(s) shall be located on the ground/sidewalk.
  - f. Sign(s) shall not be located within sight triangles or in a manner that obstructs visibility to vehicular traffic.
  - g. Sign(s) shall be displayed outside only during business hours.
3. *Construction and maintenance.*
  - a. When the adjacent sidewalk is less than six feet in width, the overall dimensions shall not exceed two feet wide by three feet in height; when the adjacent sidewalk is six feet or greater in width, the overall dimensions shall not exceed three feet wide by four feet in height.
  - b. No sign shall have moving parts, illumination, or attachments.
  - c. The sign shall have no more than two sides and shall be constructed of finished all-weather materials.
  - d. Sign(s) must be properly anchored (temporarily) or weighted against the wind to prevent safety hazards.

Sec. 12.07. - Variances.

12.07.01. *Review criteria.* The Planning and Land Development Regulation Board may grant variances from the regulations contained in this Code, in accordance with Chapter 2, and based only upon the following criteria:

- A. To permit a setback for a sign that is less than the required setback, or
- B. To permit the area or height of a sign to be increased by up to 25 percent of the maximum height or area allowed.

12.07.02. *Review findings.* The Planning and Land Development Regulation Board may grant one of the above two types of variances authorized by this section only if it finds there are special physical conditions that:

- A. Are due to the exceptional narrowness, shallowness, shape, or topography of the premises on which an activity is located, and
- B. Prevent the activity from earning a reasonable return as compared with other activities in the area.

12.07.03. *Scheduling of public hearing.* An application for said variance shall be scheduled for public hearing within 30 working days of the date the application is deemed complete by the City.

Sec. 12.08. - Appeals to Planning and Land Development Regulation Board.

12.08.01. *Procedure.*

- A. Whenever it is alleged that there has been an error in an order, action, decision, determination, or requirement by the Land Use Administrator in the enforcement and application of any provision contained within this section or any other provision of this Code pertaining to sign permits (including any allegation that the Land Use Administrator has failed to act within applicable time frames), the aggrieved party may file a written appeal with the Planning and Land Development Regulation Board.
- B. The written appeal shall be filed with the Planning and Development Regulation Board within 30 calendar days of the date of the alleged error. The written appeal shall describe the alleged error and the applicable provisions of the Code pertaining to the Land Use Administrator's order, action, decision, determination, requirement, or failure to act.
- C. The Planning and Land Development Regulation Board shall hold a hearing within 45 calendar days following receipt of the written appeal, not counting the day of the receipt and not counting any Saturday, Sunday, or legal holiday which falls upon the first or the 45th day after the date of receipt.
- D. The Planning and Land Development Regulation Board shall render a written decision within ten working days following the hearing.
- E. If the Planning and Land Development Regulation Board does not render a decision within ten working days following the hearing, the sign permit shall be deemed denied.
- F. Failure to appeal the decision regarding a sign application by the Land Use Administrator to the Planning and Land Development Regulation Board shall not be deemed a failure

to exhaust administrative remedies. The applicant may choose to proceed directly to a judicial action once the sign application has been denied by the Land Use Administrator.

- G. If an administrative appeal is filed by the applicant, and the Planning and Land Development Regulation Board fails to meet within the prescribed time, the appeal will be deemed denied, and the decision of the Land Use Administrator regarding the sign application will be deemed a final decision subject to immediate appeal to a court of competent jurisdiction.
- H. Once a decision is appealed to the Planning and Land Development Regulation Board, the Land Use Administrator shall take no further action on the matter pending the Board's decision, except for unsafe signs that present an immediate and serious danger to the public, in which case the City may pursue any proper legal remedy available to it.
- I. The Planning and Land Development Regulation Board shall comply with all applicable rules of conduct and procedures that pertain to zoning and that are not inconsistent with the provisions in this chapter.

12.08.02. *Appellate decisions deemed final, subject to review.* The appellate decisions, pursuant to Subsection 12.08.01 above, shall be deemed final, subject to judicial review by the Circuit Court of the Seventh Judicial Circuit in and for Flagler County, Florida, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available.

Sec. 12.09. - Substitution of Noncommercial Speech for Commercial Speech.

Notwithstanding anything contained in this chapter or Code to the contrary, any sign erected pursuant to the provisions of this chapter or Code may, at the option of the owner, contain a noncommercial message in lieu of a commercial message and the noncommercial copy may be substituted at any time in place of the commercial copy. The noncommercial message (copy) may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another noncommercial message, as frequently as desired by the owner of the sign, provided that the size, height, setback, and other dimensional criteria contained in this chapter and Code have been satisfied.

Sec. 12.10. - Content Neutrality as to Sign Message (Viewpoint).

Notwithstanding anything in this chapter or Code to the contrary, no sign or sign structure shall be subject to any limitation based upon the content (viewpoint) of the message contained on such sign or displayed on such sign structure.

Sec. 12.11. - Severability.

12.11.01. *Generally.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter and Code.

12.11.02. *Severability where less speech results.* Without diminishing or limiting in any way the declaration of severability set forth above in Section 12.11, or elsewhere in this chapter, this

Code, or any adopting ordinance, if any part, section subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or Code, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

12.11.03. *Severability of provisions pertaining to prohibited signs.* Without diminishing or limiting in any way the declaration of severability set forth above in Subsection 12.11.01, or elsewhere in this chapter, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under Subsection 12.03.02 of this chapter. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter and Code.

12.11.04. *Severability of prohibition on off-site signs.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter and/or any other Code provisions and/or laws as declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on off-site signs as contained in this chapter and Code.

**SECTION 4.** It is hereby ordained by the City of Palm Coast, Florida: that Section 14.02. – Glossary, Chapter 14 – Glossary, of the Unified Land Development Code, City of Palm Coast, Florida, is hereby amended to read as follows:

Sec. 14.02. - Glossary.

\* \* \*

Commercial message: Any wording, logo, emblem, character, pictograph, trademark, or symbol used to represent a firm, organization, entity, product, or service, or other representation that, directly or indirectly, names, advertises, or calls attention to a product or service. For purposes of Chapter 12, terms such as sale, special, clearance, or other words which relate to commercial activity shall be deemed to be commercial messages.

\* \* \*

Flag means a temporary sign consisting of a piece of cloth, fabric or other non-rigid material containing non-commercial speech.

\* \* \*

Mid-Scale Retailers: A large store, such as a department store or supermarket, that is prominently located in a commercial shopping center to attract customers who are then expected to patronize the other shops in the center. The anchor or large store unit shall contain a minimum of 30,000 square feet up to 60,000 square feet.

\* \* \*

Sign: Any letters, numbers, symbols, graphics, pictures, or figures, or combination thereof that are erected, constructed, placed, or attached on a structure, ground, or body which identify, advertise, or direct attention to a product, business, institution, place, person, or event, or any other communication and that can be seen from the public right-of-way or public waterway. When not modified by the terms "structure" or "face", the term "sign" shall include all parts of the sign and its supporting structure. Any device, fixture, placard or structure, including its component parts, which draws attention to an object, product, place, activity, opinion, person, institution, organization, or place of business, or which identifies or promotes the interests of any person, and which is to be viewed from any public street, road, highway, right-of-way or parking area (collectively referred to as a "public area"). For the purposes of these regulations, the term "sign" includes all structural members. A sign shall be construed to also include a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without an organized relationship between the components, each such component shall be considered to be a single sign. The term "sign" for regulatory purposes shall not include signs not visible from any street, property, or water body. The definition of sign does not include:

- (1) Signs required or installed by a government agency on private property;
- (2) Notices required to be posted by law or ordinance on private property.

Sign, A-Frame: A temporary sign that is supported by its own frame forming the cross sectional shape of an A. A type of sign composed of two boards set up in a triangle shape hinged along the top.

*Sign, abandoned:*

- (1) Any sign face which advertises a business no longer conducted or product no longer sold. In making the determination that a sign advertises a business no longer being conducted, the Land Use Administrator shall consider the existence or absence of a current occupational license, utility service deposit or account, use of the premises, and relocation of the business.
- (2) Any sign structure that not used for business purposes for over six months and that is nonconforming according to existing codes regarding height, setback, or sign area.

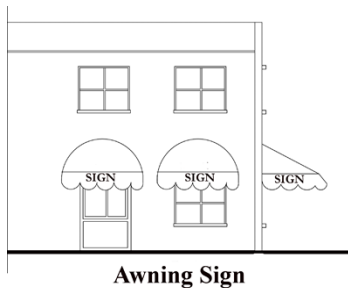


*Signage program:* A graphic representation showing a comprehensive detailed presentation of all signage proposed for a particular development to include style, color, location, size, and material.

*Sign, animated:* Any sign of which all or any part thereof revolves or moves in any fashion whatsoever; and any sign which contains or uses for illumination any light, lights or lighting device or devices which change color, flash or alternate, show movement or motion, or change the appearance of said sign or any part thereof automatically. Animated signs also include electronic, LCD and LED signs if they are using movement and change of light to depict action or to create special effects or scenes. Also, known as Automatic Electric Changing Signs (ACS). Does not include manually changeable copy sign.

*Sign area:* The area of a sign face (which is also the sign area of a wall or other sign with only one face) shall be computed by means of the smallest square, circular, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display. This includes any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. The sign area does not include any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the LDC and is clearly incidental to the display itself.

*Sign area, aggregate:* The architectural area around the copy of the sign. The maximum aggregated sign area is determined by calculating sign area times two and is exclusive of the sign area.



*Sign, awning:* Any sign consisting of information painted on, sewn on, imprinted on, or attached to the surface of an awning or canopy.

*Sign, banner:* A sign either enclosed or not enclosed in a ridged frame and secured or mounted to allow movement caused by atmosphere. Banners are temporary signs. Flags are not banners.

Sign, Changeable copy: A sign or portion thereof designed to accommodate frequent message changes composed of characters, letters, or illustrations and that can be changed or rearranged manually without altering the face or surface of such sign.

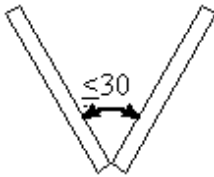
Sign, directional: Any non-commercial sign intended to provide direction for emergency services and, including signs that direct traffic onto or within a site, identify restrooms, parking areas or spaces, freight entrances, or other facilities for the convenience safety of the public and traffic circulation.

Includes an informational, wayfinding, or directional sign similar to:

(a)A noncommercial sign located on and relating to an activity on the premises upon which the sign is located, that is providing information to or is related or reasonably necessary to the movement of pedestrian and vehicular traffic on the premises, and not displaying a commercial message, e.g., "entrance," "exit," "caution" and "no trespassing", "no parking", "one-way only", and the like;

(b)A noncommercial sign within a development, or at the entrances thereto, showing the name(s) and directions to the businesses or tenants within the development or the locations of the subdivisions comprising the development, etc.

Sign, directory: A non-commercial sign that provides a listing of the occupants of a multitenant center and their suite/building numbers for emergency services purposes and to give direction to customers already within the site for the safety of the public, and for pedestrian and traffic circulation. Directory signs are not intended to be visible from the public right-of-way.



*Sign, double faced:* A sign with two faces that are no more than three feet apart at their closest point, or placed at an angle of 30 degrees or less. Double-faced signs shall be considered one sign.

Sign, Drive-through lane sign: Drive-through lane sign shall mean a sign oriented to vehicles utilizing a drive-through lane at an establishment.

*Sign, electronic display type:* A sign for presentation of information for visual reception, acquired, stored, or transmitted in various forms, where the input information is supplied as an electric signal, and uses a light source, LED (light emitting diodes), bare electric bulbs, luminous tubes, fiber optic, or other combination of light source to create the message. In addition, signs that appear protected, or are intermittently or intensely illuminated, or of a traveling, scrolling, or sequential light type, or contain, or are illuminated, or flashing light.

~~Sign, free expression: A sign, not in excess of four square feet in size (area) where the top of the sign is not more than three feet off the ground, if freestanding, and communicating~~

information or views of concern to the owner of the sign, or containing any other noncommercial message that is otherwise lawful.



Sign, freestanding: A monument sign supported by a sign structure in the ground and that is wholly independent of any building, fence, vehicle, or object other than the sign structure for support.

Sign, Government. Government sign shall mean any temporary or permanent non-commercial sign erected by or on the order of a public official or quasi-public entity at the federal, state or local government level.

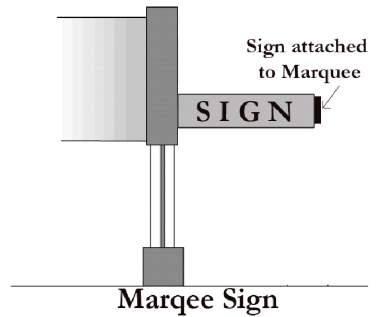
*Sign height:* The vertical distance as measured from the finished grade to the highest point of the sign structure. Finished grade is the newly established grade at the base of the sign after construction of the sign, exclusive of any filling, berming, madding, or excavating solely for the purpose of locating the sign.

~~Sign, identification: A sign that indicates the name and type of business or service, residents, or the name of the development located on the site where the sign is located including street address, phone number, and graphic of business logo.~~

*Sign, illuminated:* A sign that uses artificial light, either internal or external to the sign faces, to draw attention to the sign or otherwise increase its visibility.

Sign, Ingress and egress: Ingress and egress sign shall mean a non-commercial sign at the entrance to or exit from a parcel or a building necessary to provide directions for vehicular and pedestrian traffic and provide a warning for pedestrian and vehicular traffic safety.

*Sign, machinery and equipment:* Graphics and trademarks on vending machines, gas pumps, and machinery customarily used outside of buildings. Also, includes signs on public works and/or construction equipment (bulldozers and such) that have the brand/make of the machinery or equipment.



*Sign, marquee:* A sign attached to or hung from a marquee that is a permanent projecting structure protruding from the entrance of a building wall to provide shelter and display advertising.

*Sign, manually changeable copy sign:* The message on the sign is changed manually (without the use of an electric signal) using individual letters, numbers, phrases, or symbols. Examples include reader boards with manually changeable letters or changeable pictorial panels.

*Sign, monument:* See *Sign, freestanding*.

*Sign, off-site advertising or “outdoor advertising”:* A nonaccessory (third party) sign identifying, advertising or directing the public to a business, merchandise, service, institution, residential area, entertainment or activity which is located, sold, rented, based, produced, manufactured, or taking place at a location other than on the site on which the sign is located.

*Sign, On-site:* Any commercial sign which directs attention to a commercial or industrial occupancy, establishment, commodity, good, product, service or other commercial or industrial activity conducted, sold or offered upon the site where the sign is maintained. The on-site/off-site distinction applies only to commercial message signs. For purposes of Chapter 12, all signs with noncommercial speech messages shall be deemed to be "on-site," regardless of location.

*Sign, parasite:* Any sign not exempted by this Code, for which no permit has been issued, and which is attached to another sign.

*Sign, Permanent:* Any sign which is intended to be and is so constructed as to be of lasting and enduring condition, remaining unchanged in character, condition (beyond normal

wear and tear) and position and in a permanent manner affixed to the ground, wall or building.

*Sign, pole:* A freestanding sign, greater than 3 feet in height, supported by a pole, a column, or other fabricated support member without any type of secondary support. Pole/pylon signs typically provide clear view between the sign and the ground.

~~Sign, political: Any sign used solely to present information suggesting a candidate's suitability for elected public office or presenting an issue to be voted upon in the upcoming legally recognized election at the Federal, State, County, or City level or for special districts.~~

*Sign, portable:* A sign that has no permanent attachment to a building or to the ground by means of a footing including, but not limited to, an A-frame or sandwich board sign; a sign with wheels designed to be pulled or towed on a trailer or similar device, pull attachments, hot air or gas filled balloons; umbrellas used for advertising; signs mounted for advertising purposes on a vehicle that is parked and visible from the public right-of-way, sidewalk, or curb.

*Sign, projecting:* A sign that is wholly or partly dependent upon a building for support and that projects horizontally more than 12 inches from such building.

*Sign, roof:* A sign painted on or affixed to the roof of a building and primarily supported by that roof structure, except fascia signs.

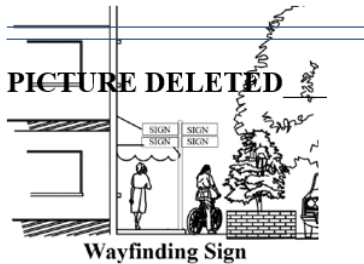
~~*Sign, snipe:* A sign made of any material which is tacked, nailed, posted, pasted, glued or otherwise attached to or placed on public property such as but not limited to a public utility pole, a public street sign, a public utility box, a public fire hydrant, a public right-of way, public street furniture, or other public property; except for A-frame and T-frame signs that are temporarily placed on public property under such limitations and constraints as may be set forth in the Land Development Code. Any sign or any material when such sign is attached in any way to trees, utility poles, motor vehicles, trailers, waterborne craft, or other objects~~

~~*Sign, temporary:* A sign intended for a use not permanent in nature. Unless otherwise provided for in this Code, a sign with an intended use for a period of time related to an event shall be deemed a temporary sign. A banner and flag shall be deemed temporary signs. A sign erected for two weeks or less to advertise or identify transitory events unless specifically permitted for a longer period by this LDC.~~

\* \* \*

Sign, Temporary Window. Any temporary sign attached to, printed on or made of paper, cloth, fabric or similar material and located behind the window.

*Sign, wall:* A sign attached to a wall of a building or structure so that the wall forms the supporting structure or becomes the background of the sign. For the purpose of Chapter 12, wall signs include awning and projecting signs.



*Sign, wayfinding:* A directional sign placed in the public right-of-way to advertise the location of one or more business or facilities in the immediate area.

*Sign, window:* A sign posted, painted, placed, or affixed in or on the interior or exterior of a window/glass door, or placed within three feet of a window/glass door pane, or displayed to be visible from the exterior of the building.

\* \* \*

**SECTION 5. NON-CONFORMING SIGNS.** Signs lawfully existing prior to the Effective Date of this Ordinance may be continued although their size, location, or other physical attributes do not conform to this Ordinance. These signs will be subject to the City’s non-conforming structure provisions.

**SECTION 6. SEVERABILITY.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 7. CODIFICATION.** It is the intention of the City Council of the City of Palm Coast, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Unified Land Development Code of the City of Palm Coast, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, “Ordinance” may be changed to Section,” “Article,” or other appropriate word.

**SECTION 8. CONFLICTS.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 9. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

Approved on first reading this \_\_\_\_\_ day of \_\_\_\_\_ 2023.



Adopted on second reading after due public notice and hearing this \_\_\_\_ day of \_\_\_\_\_,  
2023.

CITY OF PALM COAST, FLORIDA

\_\_\_\_\_  
David Alfin, Mayor

ATTEST:

\_\_\_\_\_  
Kaley Cook, City Clerk

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Neysa Borkert.  
City Attorney

**This chart replaces Section 12.06. - Temporary Signs**  
**The prior code sections and categories are listed below in RED**

**Sec. 12.06. - Temporary Signs.<sup>1</sup>**

12.06.01 Temporary Sign Standards.

**A. NON-RESIDENTIALLY ZONED PROPERTIES' TEMPORARY SIGN STANDARDS**

<b>Sign type</b>	<b>Number of signs</b>	<b>Maximum sign area and height (The sign areas provided are cumulative for the number of signs allowed)</b>	<b>Time</b>	<b>Additional standards</b>
<b>Commercial signs</b> (Banners- Grand Opening/Going out of business 12.06.06)	One banner sign per business.	Limited to height of building.	Remove after 30 consecutive days	1. No more than three times per year. 2.No permit is required.
<b>Non-commercial signs</b> (Politica – Non-Commercial Special Events 12.06.03)	Four per business	Area: Lots less than 1 acre – 16 sf 1.1 acres to 10 acres – 32 sf More than 10 acres – 48 sf Limit 7' in height	If associated with an event, remove 15 calendar days after the event.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.
<b>Signs for parcels with active Site/building permits</b> (Constructions Signs 12.06.01)	Two visible from rights-of-way adjacent to lot.	Area: Lots less than 1 acre – 16 sf 1.1 acres to 10 acres – 32 sf More than 10 acres – 48 sf  Height: 7 ft max height	Remove within 3 calendar days after issuance of a final inspection or certificate of occupancy.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines. 3. Maximum 1 sign facing each public right of way. 4. Can divide sign allowance between 2 different signs.
<b>Signs on property being actively marketed for sale, rent or lease</b> (Real Estate 12.06.04)	Two visible from rights-of-way adjacent to lot.	Area: Lots less than 1 acre – 16sf 1.1 acres to 10 acres – 32 sf More than 10 acres – 48 sf  Height: 7 ft.	Remove within 3 calendar days after sale or lease.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.

**This chart replaces Section 12.06. - Temporary Signs**  
**The prior code sections and categories are listed below in RED**

**B. RESIDENTIALLY ZONED PROPERTIES' TEMPORARY SIGN STANDARDS**

Sign Type	Number of Signs	Maximum Sign Area and Height (The sign areas provided are cumulative for the number of signs allowed)	Time	Permit Requirements and Additional standards
<b>Non-commercial signs</b> (Political 12.06.03)	Six	Area: 6 sf Height: 6 ft	If associated with an event, remove 15 calendar days after the event.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.
<b>Signs for parcels with active site/building permits</b>  (Constructions Signs 12.06.01)	One per lot	Area: Lots less than 1 acre – 4 sf 1.1 acres to 10 acres – 12 sf More than 10 acres – 32 sf  Height: 7 ft max height	Remove within 3 calendar days after issuance of a final inspection or certificate of completion.	
<b>Signs on property being actively marketed for sale, rent or lease, single family zoning.</b> (Real Estate Signs including Open House Signs 12.06.04)	Two visible from rights-of-way adjacent to lot; one additional sign (per property) only when the premises are available for inspection by the prospective buyer or tenant; said additional sign shall not be larger than 9 sf and may only be posted on private property with the permission of the property owner.	Area: 6 sf per street frontage Height: 6 ft.	Remove within 3 calendar days of sale or lease.	Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.
<b>Signs on property being actively marketed for sale, rent or lease, multi-family zoning</b> (Real Estate Signs 12.06.04)		Area: 24 sf  Height: 7 ft		
<b>Signs on properties with a sale on the property (Not defined above)</b> (Garage Sales 12.06.02)	One per street frontage	Area: 6 sf  Height: 6 ft	Remove within 3 calendar days after the event.	



RECEIVED  
JUL 28 2023

**Open House Sign ordinance for City of Palm Coast  
Recommended by the Flagler County Association of REALTORS®**

BY: *[Signature]*

1. One (1) free standing "Open House" sign per street frontage shall be allowed per property. Sign area shall not exceed three (3) square feet and shall be placed only upon the property to be sold or leased. Sign shall be displayed only when the premises are available for inspection by the prospective buyer or tenant.
2. Directional Open House signs, which are exhibited by real estate licensees, shall conform to the quantity, size, shape and color restrictions set forth in this Ordinance. Open house signs used by real estate licensees must exhibit the name of the brokerage (FREC guidelines). All open house signs must be done in a professional manner.

Off-Premises directional signs may be permitted subject to the regulations below:

- A. Directional sign size shall not exceed eighteen (18) inches x twenty-four (24) inches.
- B. The signs shall be made of plastic, steel, or aluminum. The signs' support posts shall also be made of aluminum or steel. No wooden posts will be permitted.
- C. Signs shall not be placed more than two (2) feet in height above the abutting road elevation.
- D. The Sign shall exhibit the name of the brokerage; the words "OPEN HOUSE" are permitted. Signs must exhibit the Disclosure Notification Sticker/Rider\* along with QR Code. Signs will abide by FREC guidelines in regard to contact information.
- E. No more than one (1) directional sign per real estate office shall be placed in each permitted right-a-way (FDOT and State locations not permitted). Signs shall not be placed in any median.
- F. Signs shall not be attached to any existing signs, trees, utility poles or any other structures.
- G. Signs placed in any right-a-way abutting an existing structure(s) shall require the permission of the property owner.
- H. The brokerage of the aforementioned sign of the directional signs shall be held responsible for the removal of such signs no later than 8:00pm on the evening of the Open House. Any signs in violation will be subjected to removal along with the sign being removed and discarded.
- I. Real estate licensees who violate this ordinance shall be levied a fine by FCAR with the proceeds benefiting the Flagler Realtors Foundation.

\*Disclosure Notification Sticker/Rider must be placed on each sign along with QR Code with a required verbiage to be determined by FCAR. The verbiage will notify the community of the allotted times whereas the sign can be posted, and a direct link to FCAR to report this in violation of sign ordinance or past allotted timeframe.

P.O. Box 1216 • Bunnell, FL 32110 • Phone: (386) 437-0095 • Fax: (386) 437-6070  
www.FlaglerCountyRealtors.com • Email: GAD@FlaglerCountyRealtors.com

*[Red Stamp]*



fo) '1 RECEIVED  
lffi JUL 28 2023

BY: *xh'*

**Open House Sign ordinance for City of Palm Coast  
Recommended by the Flagler County Association of REALTORS**

FCAR recommendations in Black Ink

City's proposed code amendment/responses in Red Ink (Provided at the September 26, 2023 Stakeholder Mtg.)

Summary of request and response - Highlighted

1. One (1) free standing "Open House" sign per street frontage shall be allowed per property. Sign area shall not exceed three (3) square feet and shall be placed only upon the property to be sold or leased. Sign shall be displayed only when the premises are available for inspection by the prospective buyer or tenant.

Amendment proposes for Property being actively marketed for sale or lease:  
(Land Development Code (LDC) Subsection (SS) 12.06.01 Temporary Sign Standards)

- 2 (real estate) signs visible from ROW adjacent to lot  
(Non-Res = 16 SF to 48 SF pending lot size – 7ft high)  
(SFR = 6 SF area – 6 ft high)  
(MFR = 24 SF – 7 ft high)
- 1 additional (open house sign) – per property - only when premises are available for inspection by buyers/tenants - 9 SF max - posted on private property w. permission of property owner
- Location: Setback: (for all above)
  - 2 ft. from public right-of-way.
  - 15 ft. from side property lines.

Request is for one (1) sign per frontage with a 3 SF sign area.

Proposed amendment allows two (2) per street frontage on the subject property and 1 additional - per property - on other lots with owner's permission.

Proposed amendment also allows larger sign areas.

2. Directional Open House signs, which are exhibited by real estate licensees, shall conform to the quantity, size, shape and color restrictions set forth in this Ordinance. Open house signs used by real estate licensees must exhibit the name of the brokerage (FREC guidelines). All open house signs must be done in a professional manner.

- City does not regulate the content of the sign.
- LDC SS 12.03.02 Prohibits certain materials (ie. Paper, cardboard, etc.)

Proposed amendment does not regulate the content of the signs, just size and location of the sign(s) as provided in number 1 above.

Off-Premises directional signs may be permitted subject to the regulations below:

- A. Directional sign size shall not exceed eighteen (18) inches x twenty-four (24) inches.  
(Proposing to allow a greater size for the additional sign – 9 SF)  
Request is to limit to 18" (1.5') X 24" (2') = 3 SF. Proposed amendment allows the additional sign(s) to be 9 sf.
- B. The signs shall be made of plastic, steel, or aluminum. The signs' support posts shall also be made of aluminum or steel. No wooden posts will be permitted.
  - Proposed amendment does not regulate the construction material of the signs. The code currently prohibits certain materials as stated above. ie. Paper, cardboard, etc. (LDC SS 12.03.02). This is not proposed to change.

Proposed amendment does not regulate this.



- C. Signs shall not be placed more than two (2) feet in height above the abutting road elevation.
- See no 1 above. (Proposing to allow taller – 6 or 7 ft.  
Request is to allow maximum height of two (2) feet. Proposed amendment allows 6 ft (SFR zoning), 7 ft (Non-Residential or MFR zoning)
- D. The Sign shall exhibit the name of the brokerage; the words "OPEN HOUSE" are permitted. Signs must exhibit the Disclosure Notification Sticker/Rider\* along with QR Code. Signs will abide by FREC guidelines in regard to contact information.
- City does not regulate the content of signs.  
This is not regulated by the City
- E. No more than one (1) directional sign per real estate office shall be placed in each permitted right-of-way (FOOT and State locations not permitted). Signs shall not be placed in any median.
- See no 1 above for location criteria.
  - Signs are Prohibited in Right of Way LDC SS 12.03.02. EE. (Prohibited Signs)
  - Per the attorney's presentation at the stakeholder meeting on August 22, 2023, municipalities cannot distinguish between types/purpose (content) of signs and are challenged with this issue. Therefor all signs are prohibited in the right of way.  
Signs are not permitted in the right-of-way. (See attorney's legal perspective above, and as provided in the Agenda Item Executive Summary. City is working on an educational tool to educate Realtors (and City staff) on the location of the right-of-way.
- F. Signs shall not be attached to any existing signs, trees, utility poles or any other structures.
- Yes – Covered in LDC Subsection 12.03.02.  
City agrees with this. This is not proposed to change.
- G. Signs placed in any right-of-way abutting an existing structure(s) shall require the permission of the property owner.
- Signs are prohibited in any right of way. (See E above.)  
Signs are not permitted in the right-of-way. City is working on an educational tool to assist in determining the location of the right of way.
- H. The brokerage of the aforementioned sign of the directional signs shall be held responsible for the removal of such signs no later than 8:00pm on the evening of the Open House. Any signs in violation will be subjected to removal along with the sign being removed and discarded.
- Amendment proposes "...only when the premises are available for inspection by the prospective buyer or tenant".  
The amendment allows the signs to be posted only when the premises are available for inspection by the buyer or tenant.
- I. Real estate licensees who violate this ordinance shall be levied a fine by FCAR with the proceeds benefiting the Flagler Realtors Foundation.
- City staff are obligated to follow the Land Development Code and State Statutes.  
City is obligated to follow city codes and state statutes.

\*Disclosure Notification Sticker/Rider must be placed on each sign along with QR Code with a required verbiage to be determined by FCAR. The verbiage will notify the community of the allotted times whereas the sign can be posted, and a direct link to FCAR to report this in violation of sign ordinance or past allotted timeframe.

P.O. Box 1216 • Bunnell, FL 32110 • Phone: (386) 437-0095 • Fax: (386) 437-6070 :  
www.FlaglerCountyRealtors.com • Email: GAD@FlaglerCountyRealtor.s.co1!



## Estelle Lens

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**From:** Denise Bevan  
**Sent:** Thursday, October 5, 2023 10:21 AM  
**To:** Ray Tyner; Estelle Lens  
**Cc:** Irene Schaefer; Theresa Carli Pontieri  
**Subject:** FW: Request to amend temporary sign Ordinance

Good morning Ray and Estelle,

Please note the following input from a member of the public.

Thank you,

Denise Bevan, CFM  
City Manager  
160 Lake Avenue  
Palm Coast, FL 32164  
Tel: 386-986-3702  
[www.palmcoast.gov](http://www.palmcoast.gov)



---

**From:** Theresa Carli Pontieri <TCarliPontieri@palmcoastgov.com>  
**Sent:** Wednesday, October 4, 2023 8:17 PM  
**To:** Dick Hoover <HOODBA@msn.com>  
**Cc:** Denise Bevan <dbevan@palmcoastgov.com>  
**Subject:** RE: Request to amend temporary sign Ordinance

Good Evening Mr. Hoover,

Thank you for your email and your engagement. We are working on the signage ordinance now and hope to have something for consideration very soon. Regarding code enforcement, I know that department works tirelessly with staff to ensure all staff is being used efficiently and in the best interest of our City. I have copied our City Manager herein so that she can consider your below comments as well. Enjoy the rest of your week.

Theresa Carli Pontieri  
Council Member - District 2  
160 Lake Avenue  
Palm Coast, FL 32164  
[www.palmcoast.gov](http://www.palmcoast.gov)



**From:** Dick Hoover <[HOODBA@msn.com](mailto:HOODBA@msn.com)>  
**Sent:** Wednesday, October 4, 2023 12:20 PM  
**To:** Cathy Heigher <[CHeigher@palmcoastgov.com](mailto:CHeigher@palmcoastgov.com)>; Nick Klufas <[NKlufas@palmcoastgov.com](mailto:NKlufas@palmcoastgov.com)>; Theresa Carli Pontieri <[TCarliPontieri@palmcoastgov.com](mailto:TCarliPontieri@palmcoastgov.com)>; Edward Danko <[EDanko@palmcoastgov.com](mailto:EDanko@palmcoastgov.com)>; David Alfin <[DAffin@palmcoastgov.com](mailto:DAffin@palmcoastgov.com)>  
**Subject:** Request to amend temporary sign Ordinance

### **Subject: Request to Amend Temporary Signage Ordinance**

Dear City Council member,

I hope this message finds you well. A few months ago, I reached out to express my concerns regarding temporary Open House signs along our city streets. Last night, I had the opportunity to attend the City Council meeting on October 3rd, and I must say that I left with a better understanding of the many important issues you face.

I fully appreciate that you are dealing with a myriad of concerns from our community, and it's clear to me that mine should not be a primary focus. However, I would like to highlight a few points for your consideration in a respectful manner, in the hope of finding a more efficient use of our Code enforcement officers' valuable time.

#### **1. Efficient Allocation of Resources:**

- I believe we can find a more efficient use of our Code enforcement officers' time. While I understand the importance of adhering to the city's regulations, perhaps their expertise could be better employed addressing more pressing matters, such as inspecting Fire Hydrants, Power poles, potholes, and other deficiencies within our community.

#### **2. Inconsistent Enforcement:**

- I've noticed some inconsistencies in the enforcement of temporary sign regulations, with certain signs left untouched while others are removed. It seems as though there may be biases at play, and I believe we can work towards a fairer and more consistent approach.

#### **3. Limited Impact on the Community:**

- Allowing temporary signs to be displayed only from Friday through Sunday would likely deter many individuals who do not wish to go through the effort of placing and retrieving their signs. This requirement may predominantly affect realtors like myself, who are committed to their work but find this task quite burdensome.

I kindly request that the City Council consider amending the existing ordinance regarding temporary signage. By doing so, it would not only help me get back to work but also potentially free up valuable resources that can be redirected toward more critical issues within our city.

Thank you for your time and attention to this matter. I understand the challenges you face, and I truly believe that together, we can find a balanced solution that benefits both our community and its hardworking residents.

Sincerely,

Richard Hoover

Sent from [Mail](#) for Windows

# City of Palm Coast, Florida Agenda Item

**Agenda Date:** November 14, 2023

<b>Department</b>	COMMUNITY DEVELOPMENT	<b>Amount</b>	\$415,540.00
<b>Division</b>	PLANNING	<b>Account #</b>	21097011-061000-54620
<b>Subject:</b> RESOLUTION 2023-XX APPROVING A PURCHASE AND SALE AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP, INC., FOR THE CITY OF PALM COAST TO PURCHASE LAND			
<b>Presenter:</b> Virginia Smith, Land Management Administrator			
<b>Attachments:</b>			
<ol style="list-style-type: none"> <li>1. Presentation</li> <li>2. Resolution</li> <li>3. Purchase and Sale Agreement-City Purchase</li> </ol>			
<b>Background:</b>			
<b>Council Priority:</b>			
<b>B. Safe and Reliable Services:</b>			
<ol style="list-style-type: none"> <li>1. <b>Ensure that the Maintenance &amp; Operations Complex is a top priority facility project and commence with initial improvements based on Capital Improvement Plan timeline.</b></li> </ol>			
<p>The City of Palm Coast has collaborated with Forestar (USA) Real Estate Group, Inc., to acquire land for a road connection on the west side, serving the Maintenance &amp; Operations Complex and supporting the alignment of the Matanzas Woods Parkway extension. The City will need to secure land and a temporary construction easement from Forestar. To enable the precise alignment of the road, the City will reciprocally sell a section of its vacant land to Forestar for their gateway signage. This will be discussed in a complementary agenda item to be presented to the City Council.</p>			
<b>SOURCE OF FUNDS</b>			
Matanzas PKWY Extension West 21097011-061000-54620		\$420,000.00	
Pending Work Orders		\$0.00	
Current Contract		<u>\$415,540.00</u>	
<b>Balance</b>		<b><u>\$4,460.00</u></b>	
<p>Staff is recommending City Council approve the purchase and sale agreement with Forestar for the City to purchase land from Forestar.</p>			
<b>Recommended Action:</b>			
<b>ADOPT RESOLUTION 2023-XX APPROVING A PURCHASE AND SALE AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP, INC., FOR THE CITY OF PALM COAST TO PURCHASE LAND</b>			



# **CITY OF PALM COAST AND FORESTAR (USA) REAL ESTATE GROUP, INC., PURCHASE AND SALE AGREEMENTS**

Presented by: Virginia Smith, Land Management Administrator  
Carl Cote, Director of Stormwater & Engineering



# LOCATION MAP







# PROPERTY LOCATION SITES



## Location Map

-  City Property
-  Fore Star Property

2022 MAXAR Imagery

0 350 700  
Feet



Map Provided by the Planning Division

Date: 9/22/2023

The City of Palm Coast prepares and uses this map/map data for its own purposes. This map/map data displays general boundaries and may not be appropriate for site specific uses. The City uses data believed to be accurate; however, a degree of error is inherent in all maps. This map/map data is distributed AS-IS without warranties of any kind, either expressed or implied including, but not limited to, warranties of suitability to a particular purpose or use. This map/map data is intended for use only at the published scale. Detailed on-the-ground surveys and historical analyses of sites may differ substantially from this map/map data.

# FINDINGS

- City to purchase approximately 10.52 acres at \$39,500/acre
- City to sell approximately 1.039 acres at \$39,500/acre
- City will obtain a temporary construction easement



# QUESTIONS?



**RESOLUTION 2023-\_\_\_\_**  
**FORESTAR (USA) REAL ESTATE GROUP, INC.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, APPROVING THE PURCHASE AND SALE AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP INC.; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, PROVIDING FOR IMPLEMENTING ACTIONS, AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Forestar (USA) Real Estate Group, Inc., owns certain lands, identified as Parcel ID's of 28-10-30-5415-00000-0A40 and a portion of 28-10-30-5415-00000-00A0, and located west of US 1, and desires to sell portions of their property to the City and to provide a temporary construction easement to the City; and

**WHEREAS**, the City of Palm Coast desires to purchase the lands identified above from Forestar (USA) Real Estate Group, Inc.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF PALM COAST, FLORIDA:**

**SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS.** The above recitals (whereas clauses) are hereby adopted as the findings of the City Council of the City of Palm Coast.

**SECTION 2. APPROVAL OF AGREEMENT.** The City Council hereby approves the purchase and sale contract with Forestar for the City to purchase Forestar property, as attached hereto and incorporated herein as Exhibit "A."

**SECTION 3. SEVERABILITY.** If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impart the validity, force or effect of any other section or part of the Resolution.

**SECTION 4. CONFLICTS.** All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

**SECTION 5. IMPLEMENTING ACTIONS.** The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

**SECTION 6. EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption by the City Council.

**DULY PASSED AND ADOPTED** by the City Council of the City of Palm Coast, Florida, on the 5<sup>th</sup> day of December 2023.

ATTEST:

CITY OF PALM COAST

\_\_\_\_\_  
KALEY COOK, CITY CLERK

\_\_\_\_\_  
DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
NEYSA BORKERT, CITY ATTORNEY

Attachments: Exhibit A - Forestar Parcel Contract for Purchase and Sale



## CONTRACT FOR PURCHASE AND SALE

THIS CONTRACT FOR PURCHASE AND SALE ("**Contract**") is made by and between **FORESTAR (USA) REAL ESTATE GROUP INC.**, a Delaware corporation (hereinafter referred to as "**Seller**"), with a principal address of 14785 Old St. Augustine Road, Suite 300, Jacksonville, FL 32258 and the **CITY OF PALM COAST, FLORIDA**, a Florida municipal corporation, ("**Buyer**") with a principal address of 160 Lake Avenue, Palm Coast, FL 32164. For and in consideration of a valuable sum in dollars, the premises and the mutual covenants and obligations created hereby, as well as other good and valuable considerations, Buyer agrees to buy and Seller agrees to sell the following described real property subject to and upon the terms and conditions set forth below. The effective date of this Contract (the "**Effective Date**") shall be the date upon which the last of Seller and Buyer shall have signed this Contract, including Seller's Corporate Approval, as defined below.

### ARTICLE I - PROPERTY

The real property (the "**Property**") which is the subject matter of this Contract consists of two parcels of vacant land being more particularly described in **Exhibit "A"** attached hereto and made a part hereof.

### ARTICLE II - PURCHASE PRICE

2.1 **Purchase Price.** The purchase price (the "**Purchase Price**") for the Property shall be \$39,500 per gross acre as shown on the Survey, as defined below.

### ARTICLE III - CLOSING AND CLOSING DATE

The transaction contemplated by this Contract shall be closed (the "**Closing**") on or before forty-five (45) days following the end of the Inspection Period. The Purchase Price shall be applied to Seller's closing costs. The special warranty deed, and the exclusive possession of the Property, free of all occupants, shall be delivered to Buyer at Closing.

### ARTICLE IV - TERMS AND CONDITIONS

The additional terms and conditions of this Contract are as follows:

4.1. **Evidence of Title.** Buyer, at Buyer's expense and within thirty (30) days from the Effective Date, shall obtain a title insurance commitment (the "**Title Commitment**") to issue an ALTA Owner's Title Insurance Policy from a title insurance company acceptable to Buyer (the "**Title Insurance Company**") in the amount equal to the Purchase Price for the property, naming Buyer as the proposed insured. The Title Commitment shall show good, marketable and insurable fee simple title to the Property to be vested in Buyer, liens, encumbrances, exceptions and qualifications which will not interfere with or impair the Property's use for public purposes; exceptions permitted by the provisions of this Contract; and those exceptions which are capable of and are actually to be discharged by Seller at or before Closing (all other exceptions to title being deemed title defects for purposes of this contract). Legible and complete copies of all instruments

listed as exceptions to title (commonly identified as Schedule B-II exceptions in the Title Commitment) shall be delivered with the Title Commitment. If title is found to be defective, Buyer shall, within ten (10) days from the date it receives the Title Commitment, notify Seller in writing to that effect specifying the defects. Seller shall have twenty (20) days from the receipt of Buyer's notice specifying the title defects to cure the defects and, if after said period Seller shall not have cured the defects, or if Seller shall not have progressed to a point where the defects are certain to be remedied prior to Closing, or where the removal of such defects is not otherwise assured to Buyer's satisfaction, Buyer shall have the option of (i) accepting the title "as is" or (ii) terminating the Contract after which Buyer and Seller shall each be released from all further obligations to each other respecting matters arising from this Contract.

4.2. **Survey.** Buyer shall, at Buyer's expense, obtain a survey of the Property (the "**Survey**") prepared by a licensed Florida land surveyor dated no earlier than thirty (30) days before Closing, or in the alternative, an update of an earlier survey re-dated to a point in time no earlier than the last thirty (30) days. Upon completion and approval of the Survey, the description of the Property when approved by both parties and set forth therein shall be inserted as **Exhibit "A"** hereto and shall be used on the Deed and other closing documents, as well as the Title Commitment. If the Survey shows any encroachments (except for landscaping and irrigation) onto the Property and/or improvements located outside its boundaries or encroachments by improvements principally located on the Property over required setback lines or over onto the property of others or onto any public right-of-way adjacent to the Property, or if it is apparent that the Property violates existing title covenants and/or applicable zoning laws or ordinances, Buyer shall notify Seller in writing to that effect specifying the defects. Seller shall have until thirty (30) days from receipt of Buyer's notice specifying the Survey defects in which to cure such defects. If after said period Seller shall not have cured the defects, or if Seller shall not have progressed to a point where the defects are certain to be remedied at or prior to Closing, Buyer shall have the option of (i) accepting the condition of the Property as disclosed in the Survey in an "as is" condition, or (ii) terminating the Contract, thereupon Buyer and Seller shall each be released from all further liabilities and obligations to each other with respect to all matters arising from this Contract.

4.3. **Conveyance.** Seller shall convey title to the Property to Buyer by Special Warranty Deed, in the form attached hereto as **Exhibit "B"** (the "**Deed**"), subject only to: (i) taxes for the year of Closing; and (ii) matters disclosed in the title evidence provided to and accepted or deemed accepted by Buyer.

4.4. **Closing Affidavit.** At the Closing, Seller shall furnish Buyer with an affidavit (i) testifying to the best of Seller's knowledge, the absence of any claims, encumbrances, taxes, assessments, liens or potential lienors known to Seller not disclosed in the Title Commitment and Deed, (ii) further attesting that there have been no improvements to the Property by or through Seller for the ninety (90) day period immediately preceding the date of Closing, the cost of which remains unpaid, (iii) agreeing to take no action prior to recording the Deed which would adversely affect the title to the Property, (iv) testifying that possession of the Property is subject only to those matters accepted by Buyer pursuant to the terms hereof, if any, and that Seller is otherwise in exclusive, peaceable and undisputed possession of the Property, and (v) testifying that there are

no actions or proceedings now pending in any state or federal court to which Seller is a party including, but not limited to, proceedings in bankruptcy, receivership or insolvency, which would affect the Property, the title to the Property or Seller's ability to close on the sale of the Property to Buyer except as disclosed in the Title Commitment. Seller shall also furnish such other evidence, affidavits or information required by the Title Insurance Company so that the Title Insurance Company will be able to eliminate all standard exceptions from the Title Commitment at Closing, except for taxes for the year of Closing which are not yet due or payable.

4.5. **Place of Closing.** Closing shall be held by express courier or at the offices of the title agent or at Garganese, Weiss, D'Agresta & Salzman, P.A. or such other location as is mutually agreed upon by Buyer and Seller.

4.6. **Documents for Closing.** Buyer's attorney or title agent shall prepare the Deed, Seller's affidavit, closing statement, and any corrective instruments that may be required in connection with perfecting title.

4.7. **Expenses.** The cost of recording all corrective documents needed to complete the transaction shall be borne by Seller. Buyer shall pay for the title insurance premium, state documentary tax for the Deed, recording the Deed and all fees and expenses arising from or associated with the simultaneous issuance of a lender's title insurance commitment and policy, if any, and any and all endorsements to such policy required by its lender.

4.8. **Proration of Taxes; Real and Personal.** Taxes shall be prorated based upon the current year's tax based on the highest discount available at Closing. If the Closing occurs on a date when the current year's taxes are not fixed and the current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated based on the prior year's tax; provided, however, if there are completed improvements on the Property by January 1st of the year of Closing, which improvements were not in existence on January 1st of the prior year, then the taxes shall be prorated to the date of Closing based upon the prior year's millage and an equitable assessment to be agreed upon between the parties, failing which request will be made to the county tax assessor for an informal assessment. If the Property is assessed as part of a larger tract of land and a "cut out" is not available from the tax assessor at the time of Closing, the taxes for the Property shall be estimated and prorated based upon the ratio of the size of the Property in relation to the overall tract of which the Property forms a part, taking into consideration matters of zoning as described in the tax assessor's records. Any tax proration based on an estimate may, at the request of either party, be subsequently readjusted upon receipt of the actual tax bill. Title Agent shall ensure compliance with Fla. Stat. 196.295 at settlement, and Buyer shall be responsible for any real and personal property taxes billed with respect to the Property after Closing. This provision for re-proration shall survive the Closing.

4.9. **Special Assessment Liens.** Special assessment liens which are certified, confirmed and ratified as of the date of Closing are to be paid by Seller. Special assessment liens which are certified, confirmed and ratified but payable in installments post Closing shall be paid in full by Seller at Closing. Special assessment liens pending as of the date of Closing shall be assumed by Buyer; provided, however, that if the improvements which form the basis for such

special assessment are substantially completed as of the date of Closing they shall be deemed to have been certified, confirmed or ratified and Buyer shall, at Closing, be credited with an amount equal to the last estimate of the assessment for the improvement made by the appropriate public body.

4.10. **Default**. If Buyer fails to perform any of Buyer's covenants set forth in this Contract, the Deposit, if any, shall be paid to and retained by and for the account of Seller as agreed upon liquidated damages and in full settlement of any claims whatsoever. If Seller fails to perform any of Seller's covenants set forth in this Contract or fails to convey the Property when Seller is obligated to do so in accordance with the terms hereof, Buyer shall have, as its sole and exclusive remedy, the right to either: (i) pursue specific performance against Seller; or (ii) cancel this Contract by providing written notice to Seller, in which event the Deposit shall be returned to the Buyer.

4.11. **Severability**. If any one or more of the provisions of this Contract is held invalid, illegal or unenforceable, the remaining provisions of this Contract shall be unimpaired, and the remaining provisions of this Contract shall be construed to best carry out the original intent of the parties hereto.

4.12. **Complete Agreement**. This Contract evidences the complete understanding of the parties hereto as respects the matters addressed herein. No agreement or representation, unless set forth in this Contract, shall bind either of the parties hereto. This Contract may be executed in separate counterparts, each of which shall be deemed an original, and all which shall constitute one and the same instrument. Electronic signatures will be acceptable and binding.

4.13. **Notices**. All notices will be in writing and delivered to the parties by mail, personal delivery, or electronic means. Buyer's failure to timely delivery written notice to Seller, when such notice is required by this Contract, regarding any contingency will render that contingency null and void, and this Contract will be construed as if the contingency did not exist. Any notice, document, or item delivered to or received by an attorney or licensee (including a transactions broker) representing a party will be as effective as if delivered to or received by that party. Notice shall be given to the following addresses:

To Seller: Forestar (USA) Real Estate Group Inc.  
Attn: Sarah Wicker  
14785 Old St. Augustine Road, Suite 300  
Jacksonville, FL 32258  
Tel: (904) 421-4699  
Email: [SarahWicker@Forestar.com](mailto:SarahWicker@Forestar.com)

With Copy To: Forestar (USA) Real Estate Group Inc.  
Attn: Robert J. Metz  
4042 Park Oaks Boulevard, Suite 200  
Tampa, FL 33610

Tel: (813)517-0168  
Email: [RobertMetz@Forestar.com](mailto:RobertMetz@Forestar.com)

With copy to: Shuffield Lowman & Wilson, P.A.  
Attn: Scott Cookson and John Junod  
1000 Legion Place, Suite 1700  
Orlando, FL 32801  
Phone: (407)581-9800  
Email: [scookson@shuffieldlowman.com](mailto:scookson@shuffieldlowman.com) and  
[jjunod@shuffieldlowman.com](mailto:jjunod@shuffieldlowman.com)

To Buyer: City of Palm Coast  
Attention: City Manager  
160 Lake Avenue  
Palm Coast, FL 32164  
Tel: 386-986-2458  
[dbevan@palmcoastgov.com](mailto:dbevan@palmcoastgov.com)  
[vsmith@palmcoastgov.com](mailto:vsmith@palmcoastgov.com)

Copy to: Catherine D. Reischmann  
Assistant City Attorney  
Garganese, Weiss, D'Agresta & Salzman, P.A.  
111 N. Orange Ave., Suite 2000  
Orlando, FL 32801  
Tel: 407-425-9566  
[creischmann@orlandolaw.net](mailto:creischmann@orlandolaw.net)  
[nham@orlandolaw.net](mailto:nham@orlandolaw.net)

4.14. **FIRPTA - Right to Withhold.** If Seller is a “foreign person” as defined by FIRPTA, Section 1445 of the Internal Revenue Code, Buyer is required to withhold up to 15% of the amount realized by the Seller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the Seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding. Due to the complexity and potential risks of FIRPTA, Buyer and Seller should seek legal and tax advice regarding compliance, particularly if an “exemption” is claimed on the sale of residential property for \$300,000 or less. Seller agrees that Buyer may deduct and withhold from the Purchase Price provided in Article II hereof, a tax in the amount of up to fifteen percent (15%) of the amount realized (as that term is used in Section 1445(a) of the Internal Revenue Code) by Seller pursuant to this Contract, except upon the occurrence of either (A) or (B) below:

(A) At or prior to Closing, Seller provides to Buyer a Certificate of Non-Foreign Status or a Non-USRPHC Statement described in and complying with Section 1445(b)(2) or (3) of the Internal Revenue Code of 1986, as amended (the "**Code**") (all references to Section or the Code include any successor provisions thereto and any Treasury Regulations promulgated in connection thereto) and Buyer has no knowledge or notice that such Certificate or Statement is false; or



(B) At or prior to Closing, Buyer received a withholding certificate described in Temp. Treas. Reg. Section 1.1445-3T or Rev. Proc. 85-41.

Buyer agrees that any amount deducted and withheld pursuant to this Section shall be remitted to the Internal Revenue Service in accordance with Section 1445 of the Code and the Regulations thereunder.

4.15. **Environmental Status.** Seller warrants and represents to Buyer that, to the best of Seller's knowledge, (i) the Property is free of all hazardous waste or substances except as may be permitted by applicable law; (ii) that the Property has been operated and maintained in compliance with all applicable environmental laws, statutes, ordinances, rules and regulations; (iii) no other release of any hazardous waste or substances has taken place on the Property, (iv) no migration of hazardous waste or substances has taken place from the Property which would cause the release of any hazardous waste or substance on any adjoining lands or any other lands in the vicinity of the Property; and (v) there are no bulk or underground tanks on or in the Property, and, no bulk or underground storage tanks have ever been located on or in the Property.

The term hazardous waste or substances shall include those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in CERCLA, RCRA, and the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., and in the regulations promulgated pursuant to said laws or any replacement thereof; such other substances, materials and wastes which are or become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state, or local laws or regulations.

Seller has no notice or knowledge of the on-site existence of any "Endangered and Threatened Species," flora and fauna as identified by the U.S. Fish and Wildlife Service's "List of Endangered and Threatened Wildlife and Plants" as may be amended from time to time. Seller further warrants no knowledge of the on-site existence of any upland conservation areas which are preserved, or may be preserved, for the purposes of providing of wildlife habitat. The provisions of this Section 4.15 shall survive the Closing or earlier termination of this Contract for a period of six (6) months.

4.16. **Right of Inspection.** During the term of this Contract, Buyer, its agents, employees and representatives, may have access to the Property and the records of the Property (including those on file with any governmental agency) at all reasonable times subsequent to the Effective Date of this Contract with the right, at Buyer's expense, to inspect the Property and to conduct all tests and borings thereon as Buyer, its licensed engineers, surveyors and the like shall deem reasonably necessary or desirable to fulfill the tests and investigations contemplated by the Contract. Any entry on or to the Property by Buyer or its authorized representatives pursuant to the provisions hereof shall be at the risk of Buyer, and to the extent of the monetary limitations in Fla. Stat. 768.28, Buyer hereby indemnifies, protects, and holds Seller harmless and agrees to defend Seller from and against any and all claims, demands, losses, damages, and liabilities (including but not limited to personal injury and property damage claims and mechanics' or other

liens), together with related costs and expenses, including reasonable attorney fees and litigation costs, caused by Buyer or Buyers' agents on or to the Property. This does not waive Buyer's right to sovereign immunity. In addition, Buyer shall keep the Property free from any liens which could arise as a result of the exercise by Buyer of any of its rights hereunder.

The Property is being sold "AS IS." Seller does not make any claims or promises about the condition or value of the Property included in this sale except as set forth in this Contract. The City has inspected the Property, or may inspect the Property during the Inspection Period, and relies on this inspection and any rights which may be, and statements of Seller as provided for, elsewhere in this Contract. This paragraph will survive Closing for a period of six (6) months

**4.17. WAIVER OF TRIAL BY JURY.** SELLER AND BUYER HEREBY MUTUALLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY REGARDING ANY LITIGATION BASED OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT OR ANY AGREEMENT CONTEMPLATED TO BE DELIVERED IN CONJUNCTION THEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH OF SELLER AND BUYER ENTERING INTO THIS CONTRACT.

**4.18 Community Development District.** The Property is subject to the jurisdiction of the Palm Coast Park CDD (the "**CDD**"), established in accordance with Chapter 190, Florida Statutes to finance and facilitate the construction and installation of certain infrastructure servicing certain communities, including but not limited to Sawmill Branch.

**THE PALM COAST PARK COMMUNITY DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THE PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT, THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.**

## **ARTICLE V - SPECIAL CONDITIONS**

Seller has made a limited number of representations and warranties to Buyer in this Contract. In consideration of Buyer waiving additional conditions, representations or warranties from Seller, Seller and Buyer hereby agree as follows:

**5.1. Condition Precedent.** Buyer's obligation to close under this Contract shall be subject to the satisfaction of the following conditions precedent enumerated below. In the event any one of these conditions is not satisfied for any reason whatsoever, then this Contract shall terminate, and Buyer and Seller shall be fully relieved from all further rights and responsibilities

under this contract, except for those rights and responsibilities that survive termination.

(A) The complete execution of this Contract by Seller and Buyer and the approval of this Contract by Buyer's City Council at a public meeting, pursuant to §166.045, Fla. Stat.

(B) No action, suit, proceeding, or official investigation shall have been threatened, announced, or commenced by any person or federal, state or local government authority or agency that seeks to enjoin, assess civil or criminal penalties against, or obtain any judgment, order, or consent decree, with respect to either party hereto, in connection with their respective representations and obligations under this Contract.

(C) Seller shall fully comply with the provisions of Section 286.23, Florida Statutes by executing and delivering an Affidavit in the form of the Affidavit of Interest in Real Property - Florida Statute 286.23, a copy of which is attached hereto as **Exhibit "C."**

(D) Termination of Plat Dedications.

(i) Seller dedicated portions of the Property to the Palm Coast Park Community Development District ("CDD") by plat for Sawmill Branch at Palm Coast Park Phase 2A, recorded in Plat Book 40, Page 73, Public Records of Flagler County, Florida. At or prior to Closing, the CDD has terminated or released by way of quit-claim deed or other means, as reasonably required by the Title Company, any interest the CDD has in any portion of the Property.

(ii) Seller dedicated portions of the Property to the Sawmill Branch at Palm Coast Park Homeowners Association, Inc., ("HOA") by plat for Sawmill Branch at Palm Coast Park Phase 2A, recorded in Plat Book 40, Page 73, Public Records of Flagler County, Florida. At or prior to Closing, the HOA has terminated or released by way of quit-claim deed or other means, as reasonably required by the Title Company, any interest the HOA has in any portion of the Property.

5.2. **Inspection Period.** Buyer shall have thirty (30) days from the Effective Date (herein the "**Inspection Period**") in which to conduct an investigation of the Property, including, by way of illustration and not in limitation and subject to Section 4.16: inspections as to the physical condition of the Property, investigate the availability of utilities, status of zoning or ability to rezone, zoning codes, building codes, physical condition and any other condition or characteristic of the Property which Buyer may deem necessary or relevant to Buyer in purchasing the Property. Should Buyer for any reason become dissatisfied or concerned with the result of any such investigation, search, inquiry or report as contemplated hereby, then Buyer may, prior to the expiration of the Inspection Period, terminate this Contract by written notice thereof to Seller. Notwithstanding anything to the contrary contained herein, if Buyer has not terminated this Contract by written notice delivered to Seller prior to the end of the Inspection Period, then the Deposit (if any) shall be applicable to the Purchase Price but non-refundable, other than pursuant to Section 5.1 hereof, except in the event of a default by Seller hereunder.

5.3. **Delivery of Materials.** Within five (5) days after the Effective Date of this Contract, Seller shall deliver to Buyer copies of all existing studies, tests, results, surveys, site plans, reports, title policies, plans, permits, petitions, warranties, applications, certificates, reservations, agreements, development orders, approvals, maps, aerials and related materials in its possession relating to the Property. Notwithstanding the foregoing, Seller shall not be obligated to deliver to Buyer any environmental studies, audits, reports, or soil borings related to the Property.

5.4. **Brokerage.** Buyer and Seller represent to each other that neither party has dealt with or engaged a broker with respect to the transaction contemplated herein. Each party hereby agrees to indemnify the other from and against any claim for brokerage commission or finder's fee asserted by any other person, firm or corporation claiming by, through or under said party.

5.5. **Seller Warranties.** During the period that this Contract is in effect, Seller shall maintain the Property in its current condition, reasonable wear and tear excepted.

5.6. **Seller Not to Convey.** Seller shall not convey any interest in the Property after the signing of this Contract without the prior joinder and written consent of the Buyer.

5.7. **Extensions of Closing Date.** Buyer shall have the unilateral and absolute right to exercise one thirty (30) day extension of the Closing Date. Buyer shall exercise the extension by providing at least three (3) days written notice to Seller. Any other extension shall be by mutual agreement of the parties.

5.8. **Waiver/Time.** The waiver of any breach of any provision hereunder by Buyer or Seller shall not be deemed to be a waiver of any preceding or subsequent breach hereunder. No failure to delay of any party in the exercise of any right given hereunder shall constitute a waiver thereof nor shall any partial exercise of any right preclude further exercise thereof. Time is of the essence in this Agreement as to all dates and time periods set forth herein. To the extent that the last day of any time period stipulated in this Contract falls on a Saturday, Sunday or legal holiday (State or Federal), the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. Any time period of ten (10) days or less specified herein shall not include Saturdays, Sundays or legal holidays. Where used herein, the term "business days" shall be those days other than Saturdays, Sundays or legal holidays.

5.9. **Headings; Governing Law.** The headings contained in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract. This Contract shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Florida.

5.10. **Temporary Easement and Construction of Right of Way.** Prior to expiration of the Inspection Period, Buyer and Seller shall agree on the temporary easement location related to the Temporary Construction Easement (the "**Temporary Easement**"), the form of which is attached hereto as **Exhibit "D"** and shall be recorded at Closing. The Temporary Easement shall grant Buyer certain easement rights over a portion of Seller's property for the sole purpose of Buyer's construction of and/or modifying certain infrastructure related to the proposed road

improvements. The Temporary Easement shall include language obligating Buyer, at Buyer's expense, to replace all improvements including, but not limited to, landscaping and irrigation, that Buyer, or Buyer's agents, representatives, contractors, and/or subcontractors damage or destroy in connection with Buyer's construction of the proposed right-of-way, as provided in the Temporary Construction Easement. Furthermore, the Temporary Easement shall include language granting continued access to Seller's development known as Sawmill Branch and prohibiting Buyer from unreasonably blocking or impeding access to Sawmill Branch. During Buyer's construction of the proposed right-of-way, Buyer shall not unreasonably interfere with and shall maintain continuous access to Seller's community known as Sawmill Branch. The provisions of this Section 4.19 shall survive Closing.

5.11. **Interstate Land Sales Full Disclosure Act.** As required by Section 1702(b)(5)(F) of the Interstate Land Sales Full Disclosure Act (15 U.S.C. §1701 et seq.) (the "ILSFDA"), Buyer hereby represents and warrants to Seller that it has made on on-the-ground inspection of the Property and that Seller has not induced Buyer to visit or purchase any Property by any manner prohibited under the ILSFDA and/or any rules or regulations promulgated pursuant thereto (including without limitation 24 C.F.R. 1710 et seq.). Simultaneously with the execution of this Contract, Buyer shall reaffirm the representation, warranty and covenant set forth herein by executing and delivering to Seller an Affirmation of Buyer Regarding Interstate Land Sales Full Disclosure Act, in the form attached hereto as **Exhibit "E"**.

5.12 **Corporate Ratification.** NOTWITHSTANDING ANY OTHER PROVISION HEREIN, NEITHER THIS CONTRACT NOR ANY AMENDMENT HERETO SHALL BE A VAILD, BINDING OR ENFORCEABLE OBLIGATION OF SELLER UNLESS AND UNTIL SUCH DOCUMENT IS RATIFIED IN WRITING BY ONE OF THE FOLLOW EXECUTIVE OFFICERS OF SELLER: DONALD J. TOMNITZ, DANIEL C. BARTOK, MARK WALKER, OR JAMES D. ALLEN; PROVIDED THAT (I) IF RATIFICATION OF THIS CONTRACT DOES NOT OCCUR WITHIN FIFTEEN (15) DAYS OF THE DATE OF EXECUTION BY SELLER AT ITS DIVISION LEVEL (THE "**LOCAL EXECUTION DATE**"), AND SUCH FAILURE CONTINUES FOR THREE (3) BUSINESS DAYS AFTER WRITTEN NOTICE FROM BUYER, THEN THIS CONTRACT SHALL AUTOMATICALLY TERMINATE AND BE OF NO FURTHER FORCE OR EFFECT; AND (II) IF RATIFICATION OF THIS CONTRACT OR AN AMENDMENT DOES NOT OCCUR WITHIN FIFTEEN (15) DAYS OF THE LOCAL EXECUTION DATE, AND SUCH FAILURE CONTINUES FOR THREE (3) BUSINESS DAYS AFTER WRITTEN NOTICE FROM BUYER, THEN THIS CONTRACT OR SUCH AMENDMENT SHALL BE OF NO FURTHER FORCE OR EFFECT. THE EXECUTION AND APPROVAL BY AN AUTHORIZED OFFICER OF THIS CONTRACT OR AN AMENDMENT IS REFERRED TO AS "**CORPORATE APPROVAL**".

5.13. Buyer understands that Seller was granted Environmental Resource Permit No. 102595-26 (ERP) by the St. Johns River Water Management District (SJRWMD) which required on-site wetland creation, on-site wetland preservation and on-site upland preservation. Buyer, at Buyer's sole cost and expense, and with Seller's authorization and cooperation, shall be responsible for any amendment or modification to any permit, including but not limited to, any

conservation or wetland permit, related to the Property. In addition, Buyer, at Buyer's sole cost and expense, shall be responsible for any mitigation required in connection with any amendment or modification to such permit. Seller shall reasonably cooperate with Buyer in Buyer's pursuit of any amendment or modification to the permit(s). Seller shall remain responsible for compliance with all conditions of the ERP (and any other permits and authorizations applicable to the Property subsequent to closing). Notwithstanding the foregoing, any amendment or modification to such permit shall not adversely affect Seller's development of or construction of homes in the adjacent community known as Sawmill Branch. The provisions of this Section 5.13 shall survive Closing.

**IN WITNESS WHEREOF**, the parties have executed this instrument as of the day and year indicated below.

WITNESSES:

SELLER:  
FORESTAR (USA) REAL ESTATE GROUP  
INC., a Delaware corporation

\_\_\_\_\_  
  
\_\_\_\_\_  
(print)

By: \_\_\_\_\_

Print name: \_\_\_\_\_

\_\_\_\_\_  
  
\_\_\_\_\_  
(print)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Pursuant to Section 5.12 above, the undersigned hereby ratifies this Contract on behalf of Forestar (USA) Real Estate Group Inc.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**THE PALM COAST PARK COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENT TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.**

WITNESSES:

\_\_\_\_\_  
(print)

\_\_\_\_\_  
(print)

BUYER:  
CITY OF PALM COAST, FLORIDA

By: \_\_\_\_\_  
Denise Bevan, City Manager

ATTEST:

By: \_\_\_\_\_  
Kaley Cook, City Clerk

Date: \_\_\_\_\_

[CITY SEAL]

**EXHIBIT "A"**  
[LEGAL DESCRIPTION]

**Parcel No. 1**

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Sections 28, And 29, Township 10 South, Range 30 East, Flagler County, Florida, Being More Particularly Described As Follows:

**For A Point Of Reference**, Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 1,227.47 Feet To The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, And To The **Point Of Beginning**;

From Said **Point Of Beginning**, Thence South 90°00'00" West, Along Said South Line Of Tract "D", A Distance Of 259.85 Feet To The Easterly Existing Right Of Way Line Of The Florida East Coast Railroad Company, (A 150 Foot Right Of Way As Presently Established); Thence North 09°09'56" West, Along Said Easterly Existing Right Of Way Line, A Distance Of 912.17 Feet To The Westerly Extension Of The South Line Of Said Tract "D"; Thence North 90°00'00" East, Along Said Westerly Extension, A Distance Of 524.23 Feet; Thence South 00°00'00" East, A Distance Of 900.52 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 119.08 Feet To The **Point Of Beginning**.

Less And Except Those Lands Described In Official Records Book 1685, Page 1568, (City Of Palm Coast Well Site SW-122), Said Public Records Of Flagler County, Florida.

Containing 9.175 Square Acres, More, Or Less.

AND

**Parcel No. 2**

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

**For A Point Of Reference**, Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The Westerly Extension Of The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said Westerly Extension, And Along Said South Line Of Tract "D", A Distance Of 554.59 Feet To A Point On A Curve, Concave Southeasterly, Having A Radius Of 2,460.00 Feet, And To The **Point Of Beginning**;

From Said **Point Of Beginning**, Thence Northeasterly, Along The Arc Of Said Curve, Through A Central Angle Of  $13^{\circ}45'28''$ , An Arc Length Of 590.69 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North  $71^{\circ}46'04''$  East, 589.28 Feet To The East Line Of Said Tract "D"; Thence South  $00^{\circ}00'00''$  East, Along Said East Line, A Distance Of 184.36 Feet To Said South Line Of Tract "D"; Thence South  $90^{\circ}00'00''$  West, Along Said South Line, A Distance Of 559.69 Feet To **Point Of Beginning**.

Containing 1.344 Acres, More, Or Less.

**EXHIBIT "B"**

Form of Deed

**THIS INSTRUMENT PREPARED BY  
AND AFTER RECORDING SHOULD BE  
RETURNED TO:**

Kaley Cook, City Clerk

---

**Folio No.:**

**SPECIAL WARRANTY DEED**

THIS INDENTURE, made this \_\_\_ day of \_\_\_\_\_, 2023, by **FORESTAR (USA) REAL ESTATE GROUP INC.**, a Delaware corporation, ("**Grantor**"), whose address is 14785 Old St. Augustine Road, Suite 300, Jacksonville, Florida 32258 to **CITY OF PALM COAST, FLORIDA**, a Florida municipal corporation, ("**Grantee**") whose address is 160 Lake Avenue, Palm Coast, Florida 32164, whose address is.

**WITNESSETH:**

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, to it in hand paid by Grantee, the receipt and adequacy whereof is hereby acknowledged, has granted, bargained, remised, released, conveyed, confirmed and sold to Grantee, its successors and assigns, all right, title and interest in and to, the land situate and being in Flagler County, Florida, and more particularly described on Exhibit "A" attached hereto and made a part hereof (the "**Property**").

Together with all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

This conveyance is subject only to (a) taxes and assessments for the current year and subsequent years, governmental charges or levies not yet due and payable; (b) any state or facts which an accurate survey would show; and (c) zoning and building laws, ordinances or regulations and easements and other restrictions of record, but this reference shall not operate to reimpose same.

Grantor hereby covenants with the Grantee that it is lawfully seized of the Property in fee simple; that it has good right and lawful authority to sell and convey the Property; and that it hereby fully warrants the title to the Property, and will defend the same against the lawful claims of all persons whomsoever claiming by or through Grantor.

TO HAVE AND TO HOLD unto Grantee and to the successors and assigns of Grantee in fee simple forever.

IN WITNESS WHEREOF, the Grantor has executed this instrument on the day and year first

above written.

Signed, sealed, and delivered  
in the presence of:

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

**GRANTOR:**

By:

Print \_\_\_\_\_ Name:

Its: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA )  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_, on behalf of the Grantor, who is personally known to me.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

## EXHIBIT "A" to Deed

### Parcel No. 1

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Sections 28, And 29, Township 10 South, Range 30 East, Flagler County, Florida, Being More Particularly Described As Follows:

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From Said **Point Of Beginning**, Thence South 90°00'00" West, Along Said South Line Of Tract "D", A Distance Of 259.85 Feet To The Easterly Existing Right Of Way Line Of The Florida East Coast Railroad Company, (A 150 Foot Right Of Way As Presently Established); Thence North 09°09'56" West, Along Said Easterly Existing Right Of Way Line, A Distance Of 912.17 Feet To The Westerly Extension Of The South Line Of Said Tract "D"; Thence North 90°00'00" East, Along Said Westerly Extension, A Distance Of 524.23 Feet; Thence South 00°00'00" East, A Distance Of 900.52 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 119.08 Feet To The **Point Of Beginning**.

Less And Except Those Lands Described In Official Records Book 1685, Page 1568, (City Of Palm Coast Well Site SW-122), Said Public Records Of Flagler County, Florida.

AND

### Parcel No. 2

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

**For A Point Of Reference**, Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The Westerly Extension Of The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said Westerly Extension, And Along Said South Line Of Tract "D", A Distance Of 554.59 Feet To A Point On A Curve, Concave Southeasterly, Having A Radius Of 2,460.00 Feet, And To The **Point Of Beginning**;

From Said **Point Of Beginning**, Thence Northeasterly, Along The Arc Of Said Curve, Through A Central Angle Of 13°45'28", An Arc Length Of 590.69 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 71°46'04" East, 589.28 Feet To The East Line Of Said Tract "D"; Thence South 00°00'00" East, Along Said East Line, A Distance Of 184.36 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 559.69 Feet To **Point Of Beginning**.



**EXHIBIT “C”**

**AFFIDAVIT OF INTEREST IN REAL PROPERTY – F.S. 286.23**

THIS AFFIDAVIT OF INTEREST IN REAL PROPERTY is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, for the sole purpose of compliance with Section 286.23 of the Florida Statutes.

The undersigned hereby swears and affirms that the following is true:

1. The Affiant is the \_\_\_\_\_ of FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, the legal title holder of the real property described on the attached Exhibit “C-1” (“Property”); and *(select appropriate option below)*:

*(check if applicable)* – The name(s) and address(es) of every person having a beneficial interest in the Property however small or minimal is/are:

	Name	Address
a)		
b)		
c)		

*(check if applicable)* – All beneficial interests in the Property are exempt from disclosure because the entity identified above as the owner of the Property is an entity registered with the Federal Securities Exchange Commission or the Florida Department of Financial Services pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

2. Affiant acknowledges that this Affidavit is given to comply with Florida Statutes 286.23, and will be relied upon by the City of Palm Coast in the conveyance of the Property.

3. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the United States and the State of Florida for falsely swearing to statements under oath.

4. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct and complete.

WITNESSES:

_____	By: _____
_____	Print name: _____
(print)	Title: _____
_____	
_____	
(print)	

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

SWORN TO and subscribed before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, (check one)  who is personally known to me or  who provided \_\_\_\_\_ as identification.

\_\_\_\_\_  
 Notary Public  
 Print Name: \_\_\_\_\_  
 My commission expires:

EXHIBIT "C-1"  
[LEGAL to Affidavit]

**Parcel No. 1**

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Sections 28, And 29, Township 10 South, Range 30 East, Flagler County, Florida, Being More Particularly Described As Follows:

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From Said **Point Of Beginning**, Thence South 90°00'00" West, Along Said South Line Of Tract "D", A Distance Of 259.85 Feet To The Easterly Existing Right Of Way Line Of The Florida East Coast Railroad Company, (A 150 Foot Right Of Way As Presently Established); Thence North 09°09'56" West, Along Said Easterly Existing Right Of Way Line, A Distance Of 912.17 Feet To The Westerly Extension Of The South Line Of Said Tract "D"; Thence North 90°00'00" East, Along Said Westerly Extension, A Distance Of 524.23 Feet; Thence South 00°00'00" East, A Distance Of 900.52 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 119.08 Feet To The **Point Of Beginning**.

Less And Except Those Lands Described In Official Records Book 1685, Page 1568, (City Of Palm Coast Well Site SW-122), Said Public Records Of Flagler County, Florida.

AND

**Parcel No. 2**

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

**For A Point Of Reference**, Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The Westerly Extension Of The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said Westerly Extension, And Along Said South Line Of Tract "D", A Distance Of 554.59 Feet To A Point On A Curve, Concave Southeasterly, Having A Radius Of 2,460.00 Feet, And To The **Point Of Beginning**;

From Said **Point Of Beginning**, Thence Northeasterly, Along The Arc Of Said Curve, Through A Central Angle Of 13°45'28", An Arc Length Of 590.69 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 71°46'04" East, 589.28 Feet To The East Line Of Said Tract "D"; Thence South 00°00'00" East, Along Said East Line, A Distance Of 184.36 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 559.69 Feet To **Point Of Beginning**.

EXHIBIT "D"  
FORM TEMPORARY CONSTRUCTION EASEMENT

Prepared by:  
Catherine D. Reischmann  
Asst. City Attorney  
Garganese, Weiss, D'Agresta & Salzman, P.A.  
P.O. Box 2873  
Orlando, FL 32802-2873

Return to:  
Kaley Cook, City Clerk City of Palm Coast  
160 Lake Avenue  
Palm Coast, Florida 32164-3126

**TEMPORARY CONSTRUCTION EASEMENT**

**THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT** (the "Easement Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, between **FORESTAR (USA) REAL ESTATE GROUP INC.**, a Delaware corporation, whose address is 14785 Old St. Augustine Road, Suite 300, Jacksonville, FL 32258, hereinafter referred to as the GRANTOR, and the **CITY OF PALM COAST**, whose address is 160 Lake Avenue, Palm Coast, Florida 32164, hereinafter referred to as the GRANTEE.

*WITNESSETH:*

**FOR AND IN CONSIDERATION** of ONE AND NO/100 DOLLAR (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, GRANTOR, does hereby give, grant, bargain and release to the GRANTEE, a temporary easement to enter upon the following lands of the GRANTOR, said real property being located in Flagler County, Florida and more specifically described as follows (the "Easement Area"):

***SEE EXHIBIT "A" ATTACHED HERETO.***

**FOR THE PURPOSE OF** allowing the GRANTEE to construct certain road improvements pertaining to Matanzas Woods Parkway together with necessary appurtenant facilities on the said real property, and to access the said real property abutting real property thereto and to conduct any and all acts and works as aforesaid.

**GRANTEE** shall bear the entire cost and expense of any construction, repair, alteration, replacement or removal activities performed within the Easement Area. The GRANTEE shall also, at GRANTEE's cost and expense, restore the Easement Area to the condition which existed prior to any such construction, repair, alteration, replacement or removal activities, including but

not limited to, sidewalks, irrigation, landscaping, and signage caused by or resulting from such activities.

**GRANTOR** will have continued and uninterrupted reasonable access to GRANTOR’s development known as Sawmill Branch. GRANTEE will use its best efforts to not unreasonably block or impede access to the main entrance of Sawmill Branch at Matanzas Village Ave. GRANTEE will provide GRANTOR 30 days’ notice with an alternative access plan if the City has to block or impede access to the main entrance.

**THE GRANTOR** hereby warrants that it has good and marketable title and authority to grant the rights to the GRANTEE as set forth herein.

**THIS EASEMENT** shall expire and be of no further force or effect upon the earlier of: (i) three (3) years from the date of recording of this Easement Agreement at which time this Easement Agreement shall automatically terminate without the need to record any termination in the public records; or (ii) upon completion of the construction of the City’s road improvement project as evidenced by an affidavit executed by the GRANTEE’s City Engineer, said affidavit being delivered to the GRANTOR. Upon completion, and if requested by Grantor, Grantee shall record a termination of this Easement Agreement in the public records of Flagler County.

**IN WITNESS WHEREOF**, the GRANTOR has hereunto set its hand and seal the day and year first above written.

WITNESSES:

FORESTAR (USA) REAL ESTATE GROUP  
INC., a Delaware corporation

\_\_\_\_\_  
(signature)

By: \_\_\_\_\_

\_\_\_\_\_  
(print name)

Print Name: \_\_\_\_\_

\_\_\_\_\_  
(signature)

Title: \_\_\_\_\_

\_\_\_\_\_  
(print name)

STATE OF \_\_\_\_\_

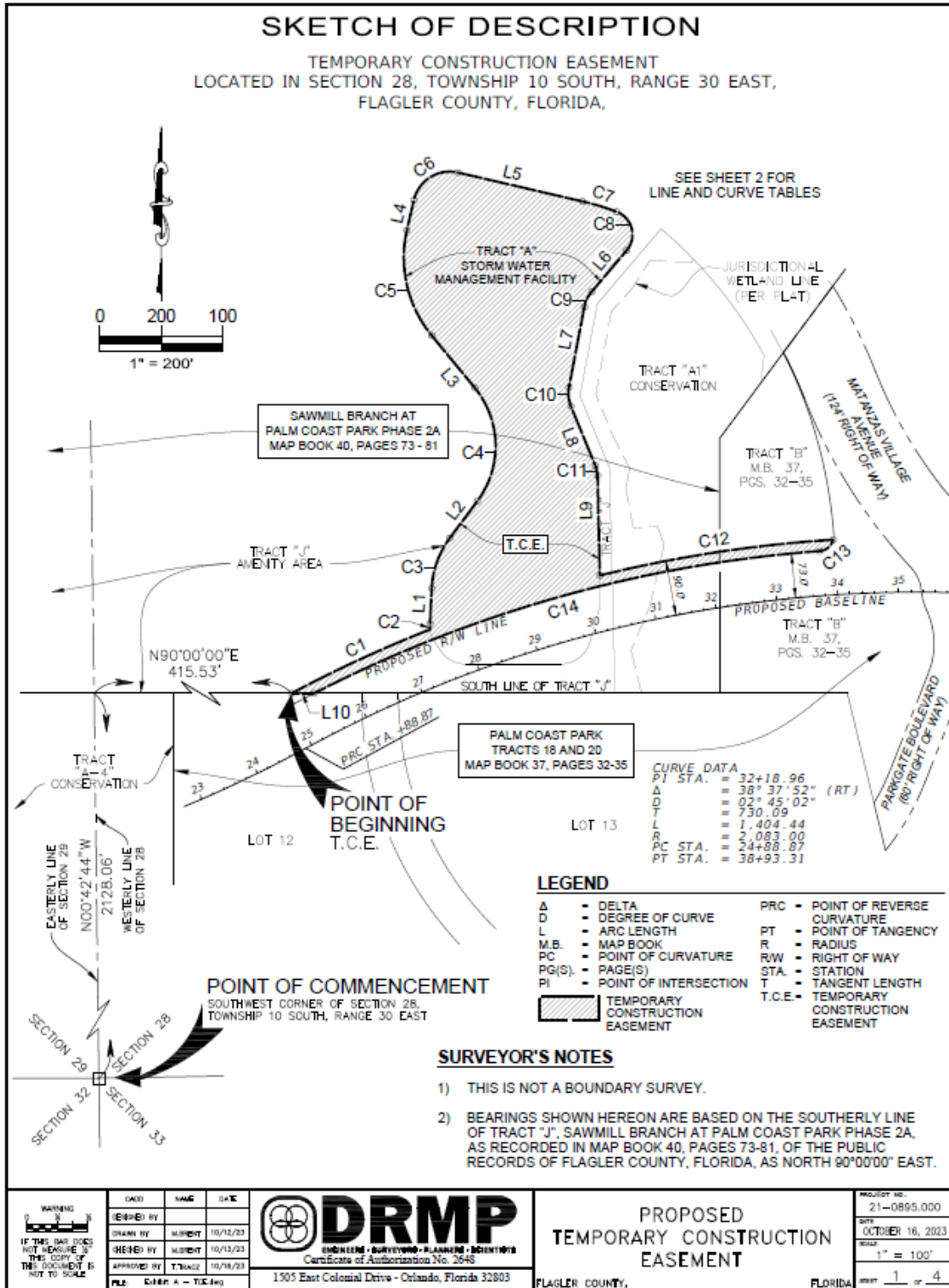
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before by means of  physical presence or  online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_ the \_\_\_\_\_ of FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, (check one)  who is personally known to me or  who produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission expires:



**EXHIBIT "A"**  
**Legal to EASEMENT AREA**



## SKETCH OF DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT  
LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST,  
FLAGLER COUNTY, FLORIDA,

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N02°47'28"E	57.87'
L2	N36°44'52"E	75.17'
L3	N39°27'28"W	110.40'
L4	N13°02'08"E	50.17'
L5	S76°57'54"E	209.03'
L6	S40°18'51"W	88.17'
L7	S10°47'48"W	132.97'
L8	S22°17'54"E	105.43'
L9	S01°20'04"E	162.66'
L10	N90°00'00"W	36.67'

CURVE TABLE					
CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD DISTANCE
C1	006°34'35"	2173.00'	249.42'	N85°14'28"E	249.28'
C2	010°16'15"	50.00'	8.96'	N02°20'40"W	8.95'
C3	033°57'24"	150.00'	88.90'	N19°46'10"E	87.60'
C4	076°12'21"	150.00'	199.51'	N01°21'18"W	185.12'
C5	052°29'35"	200.00'	183.23'	N13°12'41"W	176.89'
C6	090°00'00"	60.00'	94.25'	N58°02'08"E	84.85'
C7	007°31'41"	440.00'	57.81'	S73°12'03"E	57.77'
C8	109°45'03"	40.00'	76.62'	S14°33'41"E	65.43'
C9	029°31'05"	55.00'	28.34'	S25°33'18"W	28.02'
C10	033°05'40"	55.00'	31.77'	S05°45'04"E	31.33'
C11	020°57'50"	45.00'	16.46'	S11°48'59"E	16.37'
C12	010°10'54"	2173.00'	386.15'	N81°17'27"E	385.64'
C13	071°01'32"	25.00'	30.99'	S50°14'44"W	29.04'
C14	022°56'43"	2156.00'	863.42'	S74°17'08"W	857.66'

SEE SHEET ONE FOR GENERAL NOTES & LEGEND

 <p style="font-size: 8px;">WARNING IF THIS BAR DOES NOT MEASURE TO THIS COPY OF THIS DOCUMENT IS NOT TO SCALE</p>	DATE	NAME	DATE	 <p style="font-size: 8px;">1505 East Colonial Drive - Orlando, Florida 32803</p>	<p style="font-size: 12px; margin: 0;">PROPOSED TEMPORARY CONSTRUCTION EASEMENT</p> <p style="font-size: 8px; margin: 0;">FLAGLER COUNTY, FLORIDA</p>	PROJECT NO.	21-0895.000
	DESIGNED BY	MORRIS	10/12/23			DATE	OCTOBER 16, 2023
DRAWN BY	MORRIS	10/13/23	DATE	1505 East Colonial Drive - Orlando, Florida 32803	SHEET	2 of 4	
CHECKED BY	T. RANG	10/19/23	DATE				
FILE	CARR A - TOL.dwg						

# SKETCH OF DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT  
 LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST,  
 FLAGLER COUNTY, FLORIDA,

**DESCRIPTION**

**TEMPORARY CONSTRUCTION EASEMENT**

A Portion Of Tract "J", Tract "A" And Tract "A1", Sawmill Branch At Palm Coast Park Phase 2A, As Recorded In Map Book 40, Pages 73 - 81, Of The Public Records Of Flagler County, Florida, And A Portion Of Tract "B", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

**Commence** At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The South Line Of Said Tract "J", Sawmill Branch At Palm Coast Park Phase 2A, As Recorded In Map Book 40, Pages 73 - 81, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said South Line Of Tract "J", A Distance Of 415.53 Feet To A Point On A Non-Tangent Curve, And The **Point Of Beginning**; Thence Northeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 2173.00 Feet, Through A Central Angle Of 06°34'35", An Arc Distance Of 249.42 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 65°14'28" East, 249.28 Feet To The Westerly Line Of Said Tract "A", Sawmill Branch At Palm Coast Park Phase 2A, As Recorded In Map Book 40, Pages 73 - 81, Of The Public Records Of Flagler County, Florida, And To A Point On A Non-Tangent Curve; Thence Along The Westerly, Northerly And Easterly Lines Of Said Tract "A", The Following Nineteen (19) Courses: Course 1: Thence Northerly, Along The Arc Of A Curve To The Right, Having A Radius Of 50.00 Feet, Through A Central Angle Of 10°16'15", An Arc Distance Of 8.96 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 02°20'40" West, 8.95 Feet To A Point Of Tangency; Course 2: Thence North 02°47'28" East, A Distance Of 57.87 Feet To A Point Of Curvature; Course 3: Thence Northeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 150.00 Feet, Through A Central Angle Of 33°57'24", An Arc Distance Of 88.90 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 19°46'10" East, 87.60 Feet To A Point Of Tangency; Course 4: Thence North 36°44'52" East, A Distance Of 75.17 Feet To A Point Of Curvature; Course 5: Thence Northerly, Along The Arc Of A Curve To The Left, Having A Radius Of 150.00 Feet, Through A Central Angle Of 76°12'21", An Arc Distance Of 199.51 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 01°21'18" West, 185.12 Feet To A Point Of Tangency; Course 6: Thence North 39°27'28" West, A Distance Of 110.40 Feet To A Point Of Curvature; Course 7: Thence Northerly, Along The Arc Of A Curve To The Right, Having A Radius Of 200.00 Feet, Through A Central Angle Of 52°29'35", An Arc Distance Of 183.23 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 13°12'41" West, 176.89 Feet To A Point Of Tangency; Course 8: Thence North 13°02'06" East, A Distance Of 50.17 Feet To A Point Of Curvature; Course 9: Thence Northeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 60.00 Feet, Through A Central Angle Of 90°00'00", An Arc Distance Of 94.25 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 58°02'06" East, 84.85 Feet To A Point Of Tangency; Course 10: Thence South 76°57'54" East, A Distance Of 209.03 Feet To A Point Of Curvature; Course 11: Thence Southeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 440.00 Feet, Through A Central Angle Of 07°31'41", An Arc Distance Of 57.81 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 73°12'03" East, 57.77 Feet To A Point Of Compound Curvature;

<p style="font-size: 8px;">WARNING IF THIS DATE DOES NOT REPRODUCE IN THIS COPY OF THE DOCUMENT IS NOT TO SCALE</p>	DATE	NAME	DATE	 <b>DRMP</b> ENGINEERS • SURVEYORS • PLANNERS • ARCHITECTS Certificate of Authorization No. 2648 1505 East Colonial Drive - Orlando, Florida 32803	<p style="font-size: 12px; margin: 0;">PROPOSED TEMPORARY CONSTRUCTION EASEMENT</p> <p style="font-size: 8px; margin: 0;">FLAGLER COUNTY, FLORIDA</p>	PROJECT NO.	21-0865.000
	DESIGNED BY		DATE			OCTOBER 16, 2023	
	DRAWN BY	MURPHY	DATE			N/A	
	CHECKED BY	MURPHY	DATE			N/A	
	APPROVED BY	T. TRACY	10/18/23			SHEET	3 of 4

# SKETCH OF DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT  
 LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST,  
 FLAGLER COUNTY, FLORIDA,

DESCRIPTION (Continued)

TEMPORARY CONSTRUCTION EASEMENT

Course 12: Thence Southeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 40.00 Feet, Through A Central Angle Of 109°45'03", An Arc Distance Of 76.62 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 14°33'41" East, 65.43 Feet To A Point Of Tangency; Course 13: Thence South 40°18'51" West, A Distance Of 88.17 Feet To A Point Of Curvature; Course 14: Thence Southwesterly, Along The Arc Of A Curve To The Left, Having A Radius Of 55.00 Feet, Through A Central Angle Of 29°31'05", An Arc Distance Of 28.34 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 25°33'18" West, 28.02 Feet To A Point Of Tangency; Course 15: Thence South 10°47'46" West, A Distance Of 132.97 Feet To A Point Of Curvature; Course 16: Thence Southerly, Along The Arc Of A Curve To The Left, Having A Radius Of 55.00 Feet, Through A Central Angle Of 33°05'40", An Arc Distance Of 31.77 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 05°45'04" East, 31.33 Feet To A Point Of Tangency; Course 17: Thence South 22°17'54" East, A Distance Of 105.43 Feet To A Point Of Curvature; Course 18: Thence Southeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 45.00 Feet, Through A Central Angle Of 20°57'50", An Arc Distance Of 16.46 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 11°48'59" East, 16.37 Feet To A Point Of Tangency; Course 19: Thence South 01°20'04" East, A Distance Of 162.66 Feet To A Point On A Non-Tangent Curve; Thence Northeasterly, Departing Said Easterly Line Of Tract "A", Along The Arc Of A Curve To The Right, Having A Radius Of 2173.00 Feet, Through A Central Angle Of 10°10'54", An Arc Distance Of 386.15 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 81°17'27" East, 385.64 Feet To A Point On A Non-Tangent Curve; Thence Southwesterly, Along The Arc Of A Curve To The Right, Having A Radius Of 25.00 Feet, Through A Central Angle Of 71°01'32", An Arc Distance Of 30.99 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 50°14'44" West, 29.04 Feet To A Point Of Reverse Curvature; Thence Southwesterly, Along The Arc Of A Curve To The Left, Having A Radius Of 2156.00 Feet, Through A Central Angle Of 22°56'43", An Arc Distance Of 863.42 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 74°17'08" West, 857.66 Feet To Said South Line Of Tract "J"; Thence North 90°00'00" West, Along Said South Line Of Tract "J", A Distance Of 36.67 Feet To The Point Of Beginning.

Containing 4.106 Acres, More, Or Less.



\_\_\_\_\_  
 Thomas P. Tracz Date  
 Florida Professional Surveyor And Mapper No. 6039  
 8001 Belfort Parkway, Suite 200  
 Jacksonville, Florida, 32256  
 (904) 641-0123



This Description And Copies Thereof Are Not Valid Without The Surveyor's Signature And Original Seal.

<p style="font-size: 8px;">WARNING</p>  <p style="font-size: 8px;">IF THIS BAR DOES NOT MEASURE TO THE COPY OF THIS DOCUMENT IS NOT TO SCALE</p>	DATE	NAME	DATE	 <p style="font-size: 8px;">1505 East Colonial Drive - Orlando, Florida 32803</p>	<p style="font-size: 12px;">PROPOSED TEMPORARY CONSTRUCTION EASEMENT</p> <p style="font-size: 8px;">FLAGLER COUNTY, FLORIDA</p>	PROJECT NO.	21-0895.000
	DESIGNED BY	DATE	10/12/23			DATE	OCTOBER 16, 2023
	DRAWN BY	DATE	10/12/23			SCALE	N/A
	CHECKED BY	DATE	10/18/23			SHEET	4 of 4
	FILE	21-0895.A - T.C.E.409					

**EXHIBIT “E”**

AFFIRMATION OF BUYER REGARDING INTERSTATE LAND SALES FULL DISCLOURE  
ACT

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ of City of Palm Coast (“Buyer”), who after being first duly sworn, hereby deposes and says:

Buyer intends to execute that certain Contract for Purchase and Sale (“Contract”) pursuant to which Forestar (USA) Real Estate Group Inc., a Delaware corporation (as “Seller”), will agree to sell and Buyer will agree to purchase that certain tract or lot of land located in Flagler County, Florida, more particularly described on **Exhibit “A”** attached hereto (the “Property”)

Prior to execution of the Contract and this Affidavit, Buyer made a personal, on-the-ground inspection of the Property, and certifies to Seller that Buyer made such personal inspection as evidenced by the initials below:

		<u>Yes</u>	<u>No</u>
Initials:	Buyer personally inspected the Property		

Based on such personal inspection, Buyer is satisfied with the location, condition, and all other aspects of the Property.

Seller has made no offer to Buyer, by direct mail, telephone solicitation or by any other means or methods, of any gift, trip, dinner or any other similar promotional techniques to induce Buyer to visit the subdivision where the Property is located or to purchase the Property.

THE UNDERSIGNED further states that Buyer is familiar with the nature of the oath, and with the penalties as provided by law for falsely swearing to statements made in an instrument of this nature, and declares under the penalties of perjury that the above statements are true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2023.

**NOTE: THIS IS AN EXHIBIT. DO NOT EXECUTE**

BUYER:  
CITY OF PALM COAST, FLORIDA

By: \_\_\_\_\_  
Denise Bevan, City Manager

ATTEST:  
By: \_\_\_\_\_  
Kaley Cook, City Clerk

Date: \_\_\_\_\_

[CITY SEAL]



**EXHIBIT "A"**

[Legal Description to Affirmation]

**Parcel No. 1**

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Sections 28, And 29, Township 10 South, Range 30 East, Flagler County, Florida, Being More Particularly Described As Follows:

**For A Point Of Reference**, Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 1,227.47 Feet To The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, And To The **Point Of Beginning**;

From Said **Point Of Beginning**, Thence South 90°00'00" West, Along Said South Line Of Tract "D", A Distance Of 259.85 Feet To The Easterly Existing Right Of Way Line Of The Florida East Coast Railroad Company, (A 150 Foot Right Of Way As Presently Established); Thence North 09°09'56" West, Along Said Easterly Existing Right Of Way Line, A Distance Of 912.17 Feet To The Westerly Extension Of The South Line Of Said Tract "D"; Thence North 90°00'00" East, Along Said Westerly Extension, A Distance Of 524.23 Feet; Thence South 00°00'00" East, A Distance Of 900.52 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 119.08 Feet To The **Point Of Beginning**.

Less And Except Those Lands Described In Official Records Book 1685, Page 1568, (City Of Palm Coast Well Site SW-122), Said Public Records Of Flagler County, Florida.

AND

**Parcel No. 2**

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

**For A Point Of Reference**, Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The Westerly Extension Of The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said Westerly Extension, And Along Said South Line Of Tract "D", A Distance Of 554.59 Feet To A Point On A Curve, Concave Southeasterly, Having A Radius Of 2,460.00 Feet, And To The **Point Of Beginning**;

From Said **Point Of Beginning**, Thence Northeasterly, Along The Arc Of Said Curve, Through A Central Angle Of 13°45'28", An Arc Length Of 590.69 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 71°46'04" East, 589.28 Feet To The East Line Of Said Tract "D"; Thence South 00°00'00" East, Along Said East Line, A Distance Of 184.36 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 559.69 Feet To **Point Of Beginning**.



# City of Palm Coast, Florida Agenda Item

**Agenda Date:** November 14, 2023

<b>Department</b>	CONSTRUCTION MANAGEMENT & ENGINEERING	<b>Amount</b>
<b>Division</b>		<b>Account #</b>
<b>Subject:</b>	RESOLUTION 2023-XX APPROVING A PURCHASE AND SALE CONTRACT BETWEEN THE CITY OF PALM COAST AND FORESTAR (USA) REAL ESTATE GROUP, INC., FOR THE CITY TO SELL CITY PROPERTY AND FIND THE CITY PROPERTY TO BE SURPLUS PROPERTY	
<b>Presenter:</b>	Virginia Smith, Land Management Administrator and Carl Cote, Director of Stormwater & Engineering	
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Resolution</li><li>2. Agreement</li></ol>	
<b>Background:</b>	<p><b>Council Priority:</b> <b>B. Safe and Reliable Services:</b> <b>1. Ensure that the Maintenance &amp; Operations Complex is a top priority facility project and commence with initial improvements based on Capital Improvement Plan timeline.</b></p> <p><b>This is a companion item for the Purchase and Sale Agreement with Forestar (USA) Real Estate Group, Inc., previously heard by City Council.</b></p> <p>The City of Palm Coast has worked with representatives from Forestar (USA) Real Estate Group, Inc., to purchase land for a roadway connection to the west side for the Maintenance &amp; Operations Complex and future development of the westward expansion of Palm Coast. The City will need to acquire land and a temporary construction easement from Forestar. In order to facilitate the correct positioning of the roadway, the City in return will sell a portion of its vacant land to Forestar for their gateway signage, in a companion agenda item being presented to City Council.</p> <p>The City of Palm Coast will be selling the land for \$39,500 per gross acre. The total revenue for the portion of property to be sold should be approximately \$41,045.</p>	
<b>Recommendation:</b>	<b>ADOPT RESOLUTION 2023-XX APPROVING A PURCHASE AND SALE CONTRACT BETWEEN THE CITY OF PALM COAST AND FORESTAR (USA) REAL ESTATE GROUP, INC., FOR THE CITY TO SELL CITY PROPERTY AND FIND THE CITY PROPERTY TO BE SURPLUS PROPERTY</b>	

**RESOLUTION 2023-\_\_\_\_**  
**FORESTAR (USA) REAL ESTATE GROUP, INC.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, APPROVING THE PURCHASE AND SALE AGREEMENT BY AND BETWEEN FORESTAR (USA) REAL ESTATE GROUP INC., AND THE CITY OF PALM COAST; AND DECLARING CERTAIN CITY PROPERTY SURPLUS; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, PROVIDING FOR IMPLEMENTING ACTIONS, AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Forestar (USA) Real Estate Group, Inc., (hereinafter “Forestar”) and the City of Palm Coast, desire to enter into a contract for the purchase and sale of land; and

**WHEREAS**, the City owns certain land located west of US 1, a portion Parcel ID 28-10-30-4290-00000-00B0, which is considered to be surplus land, and the City desires to sell that portion to Forestar.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF PALM COAST, FLORIDA:**

**SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS.** The above recitals (whereas clauses) are hereby adopted as the findings of the City Council of the City of Palm Coast.

**SECTION 2. APPROVAL OF AGREEMENT.** The City Council of the City of Palm Coast hereby approves the terms and conditions of the purchase and sale contract between the City and Forestar attached as Exhibit “A” and incorporated herein for the City to sell City property and finds the City property described in Exhibit “A” to be surplus property.

**SECTION 3. SEVERABILITY.** If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impart the validity, force or effect of any other section or part of the Resolution.

**SECTION 4. CONFLICTS.** All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

**SECTION 5. IMPLEMENTING ACTIONS.** The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

**SECTION 6. EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption by the City Council.

**DULY PASSED AND ADOPTED** by the City Council of the City of Palm Coast, Florida, on the 5<sup>th</sup> day of December 2023.

ATTEST:

CITY OF PALM COAST

\_\_\_\_\_  
KALEY COOK, CITY CLERK

\_\_\_\_\_  
DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
NEYSA BORKERT, CITY ATTORNEY

Exhibit A: - City Parcel Contract for Purchase and Sale

## CONTRACT FOR PURCHASE AND SALE

THIS **CONTRACT FOR PURCHASE AND SALE** ("**Contract**") is made by and between the **CITY OF PALM COAST, FLORIDA**, a municipal corporation, (hereinafter referred to as "**Seller**") with a principal address of 160 Lake Avenue, Palm Coast, FL 32164, and **FORESTAR (USA) REAL ESTATE GROUP, INC.**, a Delaware corporation (hereinafter referred to as "**Buyer**"), with a principal address of 14785 Old St. Augustine Road, Suite 300, Jacksonville, FL 32258. For and in consideration of a valuable sum in dollars, the premises and the mutual covenants and obligations created hereby, as well as other good and valuable considerations, Buyer agrees to buy and Seller agrees to sell the following described real property subject to and upon the terms and conditions set forth below. The effective date of this Contract (the "**Effective Date**") shall be the date upon which the last of Seller and Buyer shall have signed this Contract, including Buyer's Corporate Approval, as defined below.

### ARTICLE I - PROPERTY

The real property (the "**Property**") which is the subject matter of this Contract consists of a parcel of vacant land being more particularly described in **Exhibit "A"** attached hereto and made a part hereof.

### ARTICLE II - PURCHASE PRICE

**Purchase Price.** The purchase price (the "**Purchase Price**") for the Property shall be \$39,500 per gross acre to be finalized by the survey.

### ARTICLE III - CLOSING AND CLOSING DATE

The transaction contemplated by this Contract shall be closed (the "**Closing**") on or before forty-five (45) days following the end of the Inspection Period. The Purchase Price shall be applied to Seller's closing costs. The special warranty deed, and the exclusive possession of the Property, free of all occupants, shall be delivered to Buyer at Closing.

### ARTICLE IV - TERMS AND CONDITIONS

The additional terms and conditions of this Contract are as follows:

4.1. **Evidence of Title.** Buyer, at Buyer's expense and within thirty (30) days from the Effective Date, shall obtain a title insurance commitment (the "**Title Commitment**") to issue an ALTA Owner's Title Insurance Policy from a title insurance company acceptable to Buyer (the "**Title Insurance Company**") in the amount equal to the Purchase Price for the property, naming Buyer as the proposed insured. The Title Commitment shall show good, marketable and insurable fee simple title to the Property to be vested in Buyer, liens, encumbrances, exceptions and qualifications which will not interfere with or impair the Property's use for public purposes; exceptions permitted by the provisions of this Contract; and those exceptions which are capable of and are actually to be discharged by Seller at or before Closing (all other exceptions to title being deemed title defects for purposes of this contract). Legible and complete copies of all instruments

listed as exceptions to title (commonly identified as Schedule B-II exceptions in the Title Commitment) shall be delivered with the Title Commitment. If title is found to be defective, Buyer shall, within ten (10) days from the date it receives the Title Commitment, notify Seller in writing to that effect specifying the defects. Seller shall have twenty (20) days from the receipt of Buyer's notice specifying the title defects to cure the defects and, if after said period Seller shall not have cured the defects, or if Seller shall not have progressed to a point where the defects are certain to be remedied prior to Closing, or where the removal of such defects is not otherwise assured to Buyer's satisfaction, Buyer shall have the option of (i) accepting the title "as is" or (ii) terminating the Contract after which Buyer and Seller shall each be released from all further obligations to each other respecting matters arising from this Contract.

4.2. **Survey.** Buyer shall, at Buyer's expense, obtain a survey of the Property (the "**Survey**") prepared by a licensed Florida land surveyor dated no earlier than thirty (30) days before Closing, or in the alternative, an update of an earlier survey re-dated to a point in time no earlier than the last thirty (30) days. Upon completion and approval of the Survey, the description of the Property when approved by both parties and set forth therein shall be inserted as **Exhibit "A"** hereto and shall be used on the Deed and other closing documents, as well as the Title Commitment. If the Survey shows any encroachments (except for landscaping and irrigation) onto the Property and/or improvements located outside its boundaries or encroachments by improvements principally located on the Property over required setback lines or over onto the property of others or onto any public right-of-way adjacent to the Property, or if it is apparent that the Property violates existing title covenants and/or applicable zoning laws or ordinances, Buyer shall notify Seller in writing to that effect specifying the defects. Seller shall have until thirty (30) days from receipt of Buyer's notice specifying the Survey defects in which to cure such defects. If after said period Seller shall not have cured the defects, or if Seller shall not have progressed to a point where the defects are certain to be remedied at or prior to Closing, Buyer shall have the option of (i) accepting the condition of the Property as disclosed in the Survey in an "as is" condition, or (ii) terminating the Contract, thereupon Buyer and Seller shall each be released from all further liabilities and obligations to each other with respect to all matters arising from this Contract.

4.3. **Conveyance.** Seller shall convey title to the Property to Buyer by Special Warranty Deed, in the form attached hereto as **Exhibit "B"** (the "**Deed**"), subject only to: (i) taxes for the year of Closing; and (ii) matters disclosed in the title evidence provided to and accepted or deemed accepted by Buyer.

4.4. **Closing Affidavit.** At the Closing, Seller shall furnish Buyer with an affidavit (i) testifying to the best of Seller's knowledge, the absence of any claims, encumbrances, taxes, assessments, liens or potential lienors known to Seller not disclosed in the Title Commitment and Deed, (ii) further attesting that there have been no improvements to the Property by or through Seller for the ninety (90) day period immediately preceding the date of Closing, the cost of which remains unpaid, (iii) agreeing to take no action prior to recording the Deed which would adversely affect the title to the Property, (iv) testifying that possession of the Property is subject only to those matters accepted by Buyer pursuant to the terms hereof, if any, and that Seller is otherwise in exclusive, peaceable and undisputed possession of the Property, and (v) testifying that there are no actions or proceedings now pending in any state or federal court to which Seller is a party

including, but not limited to, proceedings in bankruptcy, receivership or insolvency, which would affect the Property, the title to the Property or Seller's ability to close on the sale of the Property to Buyer except as disclosed in the Title Commitment. Seller shall also furnish such other evidence, affidavits or information required by the Title Insurance Company so that the Title Insurance Company will be able to eliminate all standard exceptions from the Title Commitment at Closing, except for taxes for the year of Closing which are not yet due or payable.

4.5. **Place of Closing.** Closing shall be held by express courier or at the offices of the title agent or at Garganese, Weiss, D'Agresta & Salzman, P.A. or such other location as is mutually agreed upon by Buyer and Seller.

4.6. **Documents for Closing.** Buyer's attorney or title agent shall prepare the Deed, Seller's affidavit, closing statement, and any corrective instruments that may be required in connection with perfecting title.

4.7. **Expenses.** State documentary tax for the Deed and the cost of recording all corrective documents needed to complete the transaction shall be borne by Seller. Buyer shall pay for the title insurance premium, recording the Deed and all fees and expenses arising from or associated with the simultaneous issuance of a lender's title insurance commitment and policy, if any, and any and all endorsements to such policy required by its lender.

4.8. **Proration of Taxes; Real and Personal.** Taxes shall be prorated based upon the current year's tax based on the highest discount available at Closing. If the Closing occurs on a date when the current year's taxes are not fixed and the current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated based on the prior year's tax; provided, however, if there are completed improvements on the Property by January 1st of the year of Closing, which improvements were not in existence on January 1st of the prior year, then the taxes shall be prorated to the date of Closing based upon the prior year's millage and an equitable assessment to be agreed upon between the parties, failing which request will be made to the county tax assessor for an informal assessment. If the Property is assessed as part of a larger tract of land and a "cut out" is not available from the tax assessor at the time of Closing, the taxes for the Property shall be estimated and prorated based upon the ratio of the size of the Property in relation to the overall tract of which the Property forms a part, taking into consideration matters of zoning as described in the tax assessor's records. Any tax proration based on an estimate may, at the request of either party, be subsequently readjusted upon receipt of the actual tax bill. This provision for re-proration shall survive the Closing.

4.9. **Special Assessment Liens.** Special assessment liens which are certified, confirmed and ratified as of the date of Closing are to be paid by Seller. Special assessment liens which are certified, confirmed and ratified but payable in installments post Closing shall be paid in full by Seller at Closing. Special assessment liens pending as of the date of Closing shall be assumed by Buyer; provided, however, that if the improvements which form the basis for such special assessment are substantially completed as of the date of Closing they shall be deemed to have been certified, confirmed or ratified and Buyer shall, at Closing, be credited with an amount equal to the last estimate of the assessment for the improvement made by the appropriate public





Attn: Scott Cookson and John Junod  
1000 Legion Place, Suite 1700  
Orlando, FL 32801  
Phone: (407)581-9800  
Email: [scookson@shuffieldlowman.com](mailto:scookson@shuffieldlowman.com) and  
[jjunod@shuffieldlowman.com](mailto:jjunod@shuffieldlowman.com)

To Buyer: City of Palm Coast  
Attention: City Manager  
160 Lake Avenue  
Palm Coast, FL 32164  
Tel: 386-986-2458  
[dbevan@palmcoastgov.com](mailto:dbevan@palmcoastgov.com)  
[vsmith@palmcoastgov.com](mailto:vsmith@palmcoastgov.com)

Copy to: Catherine D. Reischmann  
Assistant City Attorney  
Garganese, Weiss, D'Agresta & Salzman, P.A.  
111 N. Orange Ave., Suite 2000  
Orlando, FL 32801  
Tel: 407-425-9566  
[creischmann@orlandolaw.net](mailto:creischmann@orlandolaw.net)  
[nham@orlandolaw.net](mailto:nham@orlandolaw.net)

4.14. **FIRPTA - Right to Withhold.** If Seller is a “foreign person” as defined by FIRPTA, Section 1445 of the Internal Revenue Code, Buyer is required to withhold up to 15% of the amount realized by the Seller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the Seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding. Due to the complexity and potential risks of FIRPTA, Buyer and Seller should seek legal and tax advice regarding compliance, particularly if an “exemption” is claimed on the sale of residential property for \$300,000 or less. Seller agrees that Buyer may deduct and withhold from the Purchase Price provided in Article II hereof, a tax in the amount of up to fifteen percent (15%) of the amount realized (as that term is used in Section 1445(a) of the Internal Revenue Code) by Seller pursuant to this Contract, except upon the occurrence of either (A) or (B) below:

(A) At or prior to Closing, Seller provides to Buyer a Certificate of Non-Foreign Status or a Non-USRPHC Statement described in and complying with Section 1445(b)(2) or (3) of the Internal Revenue Code of 1986, as amended (the "**Code**") (all references to Section or the Code include any successor provisions thereto and any Treasury Regulations promulgated in connection thereto) and Buyer has no knowledge or notice that such Certificate or Statement is false; or

(B) At or prior to Closing, Buyer received a withholding certificate described in Temp. Treas. Reg. Section 1.1445-3T or Rev. Proc. 85-41.

Buyer agrees that any amount deducted and withheld pursuant to this Section shall be remitted to the Internal Revenue Service in accordance with Section 1445 of the Code and the Regulations thereunder.

4.15. **Environmental Status.** Seller warrants and represents to Buyer that, to Seller's knowledge, (i) the Property is free of all hazardous waste or substances except as may be permitted by applicable law; (ii) that the Property has been operated and maintained in compliance with all applicable environmental laws, statutes, ordinances, rules and regulations; (iii) no other release of any hazardous waste or substances has taken place on the Property, (iv) no migration of hazardous waste or substances has taken place from the Property which would cause the release of any hazardous waste or substance on any adjoining lands or any other lands in the vicinity of the Property; and (v) there are no bulk or underground tanks on or in the Property, and, no bulk or underground storage tanks have ever been located on or in the Property.

The term hazardous waste or substances shall include those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in CERCLA, RCRA, and the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., and in the regulations promulgated pursuant to said laws or any replacement thereof; such other substances, materials and wastes which are or become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state, or local laws or regulations.

Seller has no notice or knowledge of the on-site existence of any "Endangered and Threatened Species," flora and fauna as identified by the U.S. Fish and Wildlife Service's "List of Endangered and Threatened Wildlife and Plants" as may be amended from time to time. Seller further warrants no knowledge of the on-site existence of any upland conservation areas which are preserved, or may be preserved, for the purposes of providing of wildlife habitat.

4.16. **Right of Inspection.** During the term of this Contract, Buyer, its agents, employees and representatives, may have access to the Property and the records of the Property (including those on file with any governmental agency) at all reasonable times subsequent to the Effective Date of this Contract with the right, at Buyer's expense, to inspect the Property and to conduct all tests and borings thereon as Buyer, its licensed engineers, surveyors and the like shall deem reasonably necessary or desirable to fulfill the tests and investigations contemplated by the Contract. Any entry on or to the Property by Buyer or its authorized representatives pursuant to the provisions hereof shall be at the risk of Buyer, and to the extent of the monetary limitations in Fla. Stat. 768.28, Buyer hereby indemnifies, protects, and holds Seller harmless and agrees to defend Seller from and against any and all claims, demands, losses, damages, and liabilities (including but not limited to personal injury and property damage claims and mechanics' or other liens), together with related costs and expenses, including reasonable attorney fees and litigation costs, caused by Buyer or Buyers' agents on or to the Property. This does not waive Buyer's right to sovereign immunity. In addition, Buyer shall keep the Property free from any liens which could arise as a result of the exercise by Buyer of any of its rights hereunder.

The Property is being sold "AS IS." Seller does not make any claims or promises about

the condition or value of the Property included in this sale except as set forth in this Contract. The Buyer has inspected the Property, or may inspect the Property during the Inspection Period, and relies on this inspection and any rights which may be, and statements of Seller as provided for, elsewhere in this Contract. This paragraph will survive Closing for a period of six (6) months

4.17. **WAIVER OF TRIAL BY JURY.** SELLER AND BUYER HEREBY MUTUALLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY REGARDING ANY LITIGATION BASED OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT OR ANY AGREEMENT CONTEMPLATED TO BE DELIVERED IN CONJUNCTION THEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH OF SELLER AND BUYER ENTERING INTO THIS CONTRACT.

4.18. **Community Development District.** The Property is subject to the jurisdiction of the Palm Coast Park CDD (the "**CDD**"), established in accordance with Chapter 190, Florida Statutes to finance and facilitate the construction and installation of certain infrastructure servicing certain communities, including but not limited to Sawmill Branch.

**THE PALM COAST PARK COMMUNITY DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THE PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT, THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.**

#### **ARTICLE V - SPECIAL CONDITIONS**

Seller has made a limited number of representations and warranties to Buyer in this Contract. In consideration of Buyer waiving additional conditions, representations or warranties from Seller, Seller and Buyer hereby agree as follows:

5.1. **Condition Precedent.** Buyer's obligation to close under this Contract shall be subject to the satisfaction of the following conditions precedent enumerated below. In the event any one of these conditions is not satisfied for any reason whatsoever, then this Contract shall terminate, and Buyer and Seller shall be fully relieved from all further rights and responsibilities under this contract.

(A) A declaration of surplus property by the Seller's City Council at a public meeting.

(B) The complete execution of this Contract by Seller and Buyer and the approval of this Contract by Seller's City Council at a public meeting, pursuant to

§166.045, Fla. Stat.

(C) No action, suit, proceeding, or official investigation shall have been threatened, announced, or commenced by any person or federal, state or local government authority or agency that seeks to enjoin, assess civil or criminal penalties against, or obtain any judgment, order, or consent decree, with respect to either party hereto, in connection with their respective representations and obligations under this Contract.

(D) Release or waiver from Byrndog PCP, LLC (Grantee) of that certain Right of First Refusal Agreement recorded May 11, 2021, in O.R. Book 2561, Page 324, Public Records of Flagler County, Florida.

5.2. **Inspection Period.** Buyer shall have thirty (30) days from the Effective Date (herein the "**Inspection Period**") in which to conduct an investigation of the Property, including, by way of illustration and not in limitation and subject to Section 4.16: inspections as to the physical condition of the Property, investigate the availability of utilities, status of zoning or ability to rezone, zoning codes, building codes, physical condition and any other condition or characteristic of the Property which Buyer may deem necessary or relevant to Buyer in purchasing the Property. Should Buyer for any reason become dissatisfied or concerned with the result of any such investigation, search, inquiry or report as contemplated hereby, then Buyer may, prior to the expiration of the Inspection Period, terminate this Contract by written notice thereof to Seller. Notwithstanding anything to the contrary contained herein, if Buyer has not terminated this Contract by written notice delivered to Seller prior to the end of the Inspection Period, then the Deposit (if any) shall be applicable to the Purchase Price but non-refundable, other than pursuant to Section 5.1 hereof, except in the event of a default by Seller hereunder.

5.3. **Delivery of Materials.** Within five (5) days after the Effective Date of this Contract, Seller shall deliver to Buyer copies of all existing studies, tests, results, surveys, site plans, reports, title policies, plans, permits, petitions, warranties, applications, certificates, reservations, agreements, development orders, approvals, maps, aerials and related materials in its possession relating to the Property. Notwithstanding the foregoing, Seller shall not be obligated to deliver to Buyer any environmental studies, audits, reports, or soil borings related to the Property.

5.4. **Brokerage.** Buyer and Seller represent to each other that neither party has dealt with or engaged a broker with respect to the transaction contemplated herein. Each party hereby agrees to indemnify the other from and against any claim for brokerage commission or finder's fee asserted by any other person, firm or corporation claiming by, through or under said party.

5.5. **Seller Warranties.** During the period that this Contract is in effect, Seller shall maintain the Property in its current condition, reasonable wear and tear excepted.

5.6. **Seller Not to Convey.** Seller shall not convey any interest in the Property after the signing of this Contract without the prior joinder and written consent of the Buyer.

5.7. **Waiver/Time.** The waiver of any breach of any provision hereunder by Buyer or Seller shall not be deemed to be a waiver of any preceding or subsequent breach hereunder. No

failure to delay of any party in the exercise of any right given hereunder shall constitute a waiver thereof nor shall any partial exercise of any right preclude further exercise thereof. Time is of the essence in this Agreement as to all dates and time periods set forth herein. To the extent that the last day of any time period stipulated in this Contract falls on a Saturday, Sunday or legal holiday (State or Federal), the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. Any time period of ten (10) days or less specified herein shall not include Saturdays, Sundays or legal holidays. Where used herein, the term “business days” shall be those days other than Saturdays, Sundays or legal holidays.

5.8. **Headings; Governing Law.** The headings contained in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract. This Contract shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Florida.

5.9. **Corporate Ratification.** NOTWITHSTANDING ANY OTHER PROVISION HEREIN, NEITHER THIS CONTRACT NOR ANY AMENDMENT HERETO SHALL BE A VALID, BINDING OR ENFORCEABLE OBLIGATION OF BUYER UNLESS AND UNTIL SUCH DOCUMENT IS RATIFIED IN WRITING BY ONE OF THE FOLLOW EXECUTIVE OFFICERS OF SELLER: DONALD J. TOMNITZ, DANIEL C. BARTOK, MARK WALKER, OR JAMES D. ALLEN; PROVIDED THAT (I) IF RATIFICATION OF THIS CONTRACT DOES NOT OCCUR WITHIN FIFTEEN (15) DAYS OF THE DATE OF EXECUTION BY BUYER AT ITS DIVISION LEVEL (THE “**LOCAL EXECUTION DATE**”), AND SUCH FAILURE CONTINUES FOR THREE (3) BUSINESS DAYS AFTER WRITTEN NOTICE FROM SELLER, THEN THIS CONTRACT SHALL AUTOMATICALLY TERMINATE AND BE OF NO FURTHER FORCE OR EFFECT; AND (II) IF RATIFICATION OF THIS CONTRACT OR AN AMENDMENT DOES NOT OCCUR WITHIN FIFTEEN (15) DAYS OF THE LOCAL EXECUTION DATE, AND SUCH FAILURE CONTINUES FOR THREE (3) BUSINESS DAYS AFTER WRITTEN NOTICE FROM SELLER, THEN THIS CONTRACT OR SUCH AMENDMENT SHALL BE OF NO FURTHER FORCE OR EFFECT. THE EXECUTION AND APPROVAL BY AN AUTHORIZED OFFICER OF THIS CONTRACT OR AN AMENDMENT IS REFERRED TO AS “CORPORATE APPROVAL”.

**ATTENTION: SELLER AND BUYER**

**CONVEYANCES TO FOREIGN BUYERS:** Part III of Chapter 692, Sections 692.201 - 692.205, Florida Statutes, 2023 (the “Act”), in part, limits and regulates the sale, purchase and ownership of certain Florida properties by certain buyers who are associated with a “foreign country of concern”, namely: the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic. **It is a crime to buy or knowingly sell property in violation of the Act.**

**At time of purchase, Buyer must provide a signed Affidavit, in the form attached hereto as Exhibit “C”, which complies with the requirements of the Act.** Seller and Buyer are advised to seek legal counsel regarding their respective obligations and liabilities under the Act.



**IN WITNESS WHEREOF**, the parties have executed this instrument as of the day and year indicated below.

*(signature pages to follow)*

**THE PALM COAST PARK COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENT TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.**

WITNESSES:

\_\_\_\_\_

(print)

\_\_\_\_\_

(print)

BUYER :

FORESTAR (USA) REAL ESTATE GROUP,  
INC., a Delaware corporation

By: \_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Pursuant to Section 5.12 above, the undersigned hereby ratifies this Contract on behalf of Forestar (USA) Real Estate Group Inc.

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

WITNESSES:

\_\_\_\_\_

(print)

\_\_\_\_\_

(print)

SELLER:

CITY OF PALM COAST, FLORIDA

By: \_\_\_\_\_  
Denise Bevan, City Manager

ATTEST:

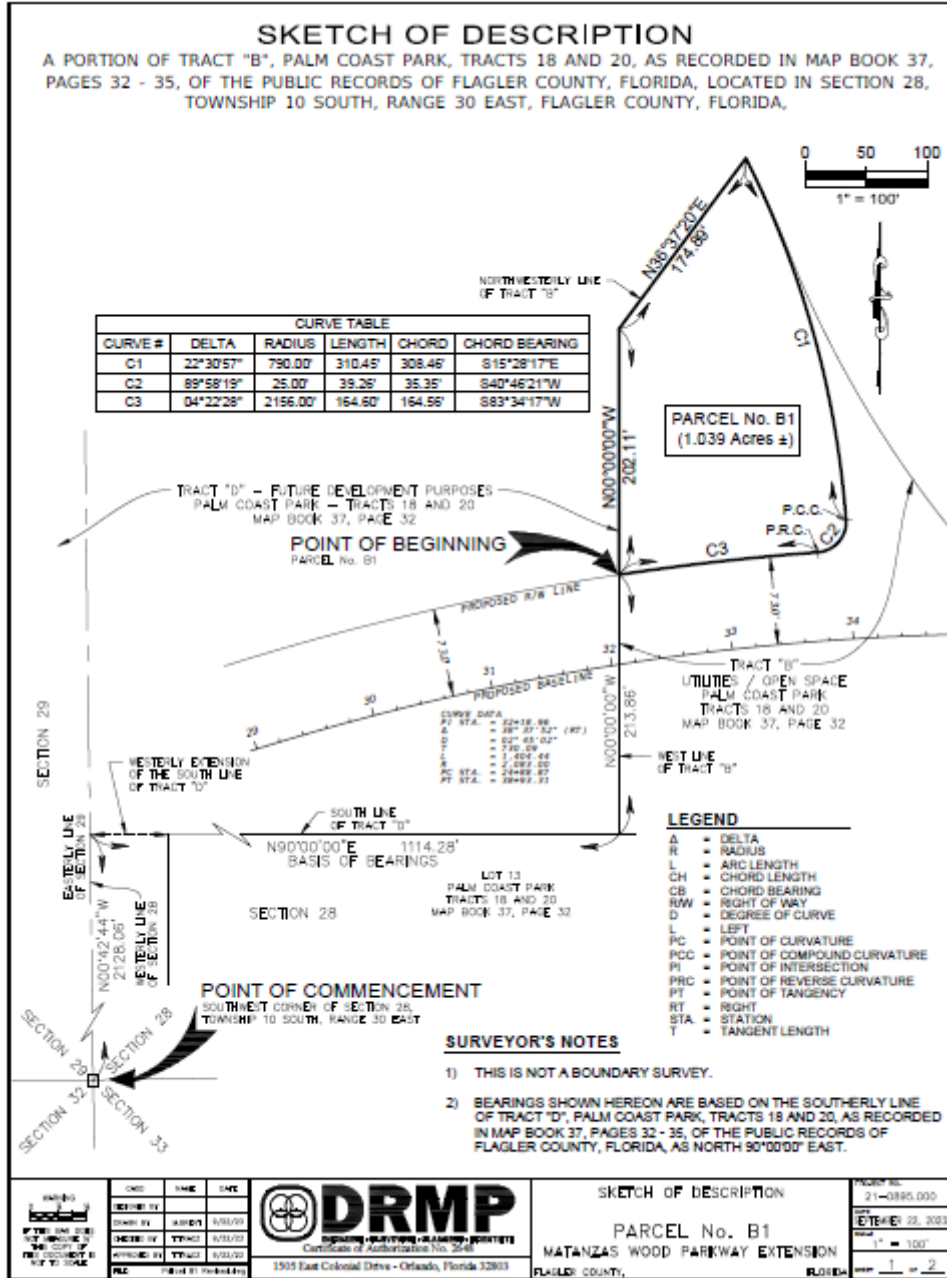
By: \_\_\_\_\_  
Kaley Cook, City Clerk

Date: \_\_\_\_\_

[CITY SEAL]

# EXHIBIT "A"

## [LEGAL DESCRIPTION]



### SKETCH OF DESCRIPTION

A PORTION OF TRACT "B", PALM COAST PARK, TRACTS 18 AND 20, AS RECORDED IN MAP BOOK 37, PAGES 32 - 35, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,

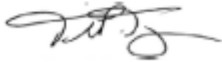
**DESCRIPTION**

**PARCEL No. B1**

A Portion Of Tract "B", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The Westerly Extension Of The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 Through 35, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said Westerly Extension, And Along Said South Line Of Tract "D", A Distance Of 1114.28 Feet To The Westerly Line Of Tract "B" Of Said Palm Coast Park; Thence North 00°00'00" West, Along Said Westerly Line Of Tract "B", A Distance Of 213.86 Feet To The Point Of Beginning; Thence Continue North 00°00'00" West, Along Said Westerly Line Of Tract "B", A Distance Of 202.11 Feet To The Northwestern Line Of Said Tract "B"; Thence North 36°37'20" East, Along Said Northwestern Line, A Distance Of 174.89 Feet To A Point On A Non Tangent Curve; Thence Southeasterly Along The Arc Of Said Curve, Concave Southwesterly, Having A Radius Of 790.00 Feet, Through A Central Angle Of 22°30'57", An Arc Length Of 310.45 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 15°28'17" East, 308.46 Feet To A Point Of Compound Curvature; Thence Southwesterly Along The Arc Of A Curve, Concave Northwesterly, Having A Radius Of 25.00 Feet, Through A Central Angle Of 89°58'19", An Arc Distance Of 39.26 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 40°46'21" West, 35.35 Feet To A Point Of Reverse Curvature; Thence Southwesterly Along The Arc Of A Curve, Concave Southeasterly, Having A Radius Of 2156.00 Feet, Through A Central Angle Of 04°22'28", An Arc Distance Of 164.60 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 83°34'17" West, 164.56 Feet To The Point Of Beginning.

Containing 1.039 Acres, More, Or Less.



Thomas P. Tracz                      Date  
 Florida Professional Surveyor And Mapper No. 6039  
 8001 Belfort Parkway, Suite 200  
 Jacksonville, Florida, 32256  
 (904) 641-0123



This Description And Copies Thereof Are Not Valid Without The Surveyor's Signature And Original Seal.

	DATE: _____ DRAWN BY: _____ CHECKED BY: _____ APPROVED BY: _____ FILE: _____	 <p style="font-size: 8px;">                     REGISTERED SURVEYOR AND MAPPING PROFESSIONALS                      Certificate of Authorization No. 2046                      1305 East Colonial Drive - Orlando, Florida 32803                 </p>	SKETCH OF DESCRIPTION  PARCEL No. B1 MATANZAS WOOD PARKWAY EXTENSION FLAGLER COUNTY, FLORIDA	SHEET NO. 21-0885.000 TOTAL SHEETS 21-0885.000 DATE: N/A SCALE: 2" = 2'
---	--	--	--	--

**EXHIBIT "B"**

Form of Deed

**THIS INSTRUMENT PREPARED BY  
AND AFTER RECORDING SHOULD BE  
RETURNED TO:**

---

**Folio No.:**

**SPECIAL WARRANTY DEED**

THIS INDENTURE, made this \_\_ day of \_\_\_\_\_, 2023, by the **CITY OF PALM COAST, FLORIDA**, a Florida municipal corporation, ("**Grantor**") whose address is 160 Lake Avenue, Palm Coast, Florida 32164, to **FORESTAR (USA) REAL ESTATE GROUP INC.**, a Delaware corporation, ("**Grantee**"), whose address is 14785 Old St. Augustine Road, Suite 300, Jacksonville, Florida 32258.

**WITNESSETH:**

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, to it in hand paid by Grantee, the receipt and adequacy whereof is hereby acknowledged, has granted, bargained, remised, released, conveyed, confirmed and sold to Grantee, its successors and assigns, all right, title and interest in and to, the land situate and being in Flagler County, Florida, and more particularly described on Exhibit "A" attached hereto and made a part hereof (the "**Property**").

Grantor hereby releases any right, title or interest it may have to all reservations pursuant to Florida Statute 270.11.

Together with all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

This conveyance is subject only to (a) taxes and assessments for the current year and subsequent years, governmental charges or levies not yet due and payable; (b) any state or facts which an accurate survey would show; and (c) zoning and building laws, ordinances or regulations and easements and other restrictions of record, but this reference shall not operate to reimpose same.

Grantor hereby covenants with the Grantee that it is lawfully seized of the Property in fee simple; that it has good right and lawful authority to sell and convey the Property; and that it hereby fully warrants the title to the Property, and will defend the same against the lawful claims of all persons whomsoever claiming by or through Grantor.



TO HAVE AND TO HOLD unto Grantee and to the successors and assigns of Grantee in fee simple forever.

IN WITNESS WHEREOF, the Grantor has executed this instrument on the day and year first above written.

**NOTE: THIS IS AN EXHIBIT. DO NOT EXECUTE**

WITNESSES:

CITY OF PALM COAST, FLORIDA, a Florida municipal corporation

\_\_\_\_\_  
(signature)

By: \_\_\_\_\_  
David Alfin, Mayor

\_\_\_\_\_  
(print name)

ATTEST:

Address: \_\_\_\_\_

\_\_\_\_\_  
Kaley Cook, City Clerk

\_\_\_\_\_

Date: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

Address: 160 Lake Avenue, Palm Coast, FL  
32164

Address: \_\_\_\_\_

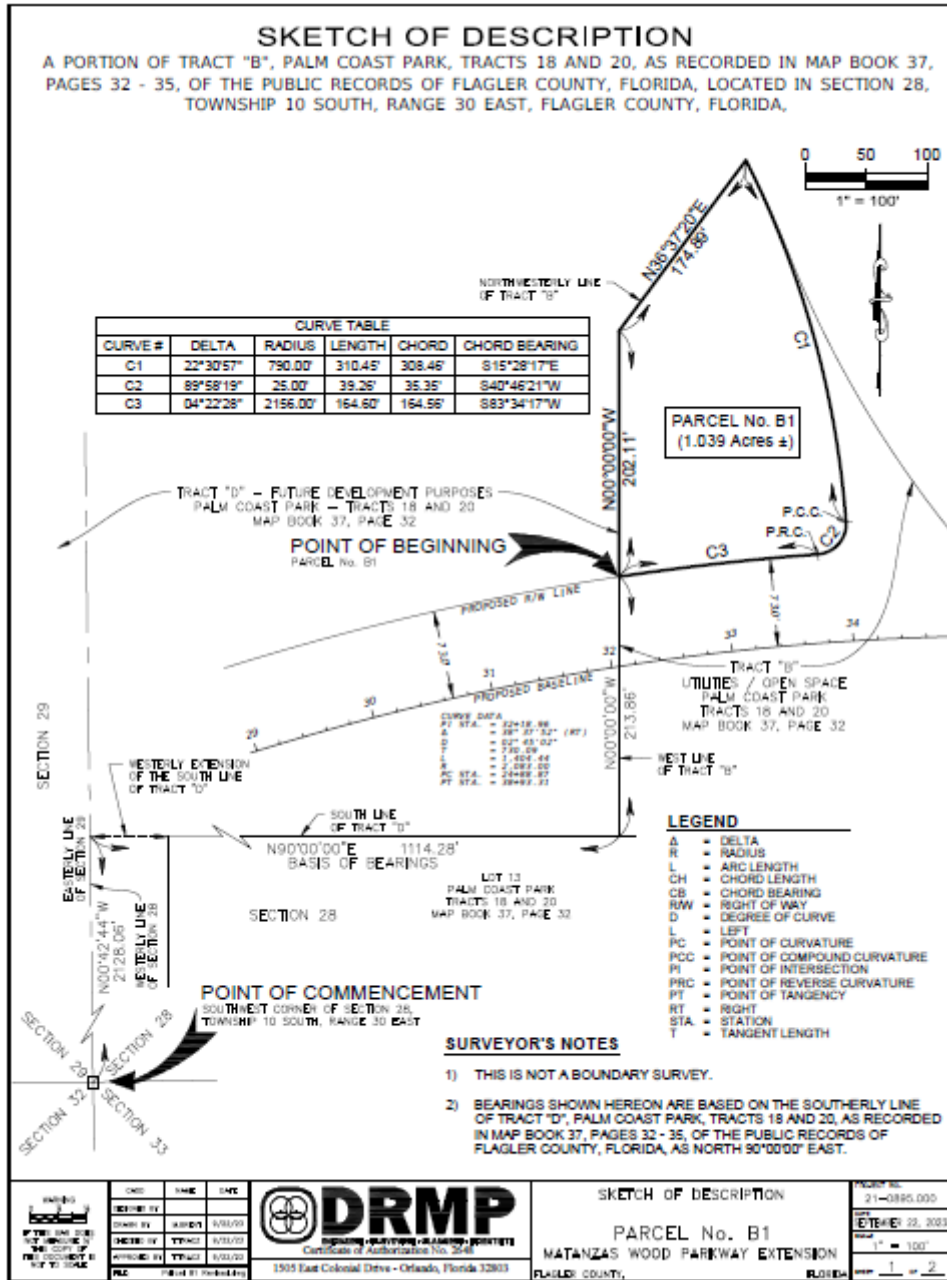
\_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by David Alfin, Mayor, of the City of Palm Coast, Florida, who is personally known to me.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

Exhibit A to Deed



**EXHIBIT 'C'**

Form of Affidavit

**Affidavit**

[Part III, Ch. 692 F.S. - Conveyances to Foreign Entities - By Entity Buyer]

**BEFORE ME**, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared \_\_\_\_\_ (“Affiant”) who deposes and says under penalties of perjury that:

(When used “Affiant” and “Buyer” include singular or plural as context so requires or admits.)

1. Affiant is the [state official capacity] of [state name/type/venue of entity], which is hereinafter referred to as “Buyer.”

2. Buyer is purchasing or acquiring an interest in the following described real property:

[Insert Legal Description]

3. Affiant has read the attached Notice and has been given the opportunity to consult with an attorney.

4. Buyer is (Initial which is applicable):

\_\_\_ Not a Foreign Principal as defined in §692.201, F.S. and is in compliance with the requirements set out in §692.202-205, F.S.

OR

\_\_\_ A Foreign Principal as defined in sec §692.201, F.S. and is in compliance with the requirements set out in §692.202-205, F.S.

5. Affiant acknowledges the foregoing representations will be relied upon to establish compliance with the law.

**NOTE: THIS IS AN EXHIBIT. DO NOT EXECUTE**

\_\_\_\_\_  
(Affiant)

Print Name: \_\_\_\_\_

Official Capacity: \_\_\_\_\_

Name of Buyer: Forestar (USA) Real Estate Group, Inc., a Delaware corporation

Address: 14785 Old St. Augustine Road, Suite 300, Jacksonville, FL 32258

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_ who  is personally known or  has produced \_\_\_\_\_ as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

## **NOTICE: FLORIDA NOW RESTRICTS THE SALE OF PROPERTY TO FOREIGN PRINCIPALS (Secs. 692.202-205, F.S.)**

**THIS NOTICE DOES NOT APPLY TO CITIZENS OF THE UNITED STATES AND PERMANENT RESIDENT ALIENS.**

CAUTION: THIS NOTICE IS NOT INTENDED TO PROVIDE LEGAL ADVICE. PERSONS WHO ARE OR MAY BE DEFINED AS “FOREIGN PRINCIPALS OF FOREIGN COUNTRIES OF CONCERN” SHOULD CONSULT WITH AN ATTORNEY BEFORE PURCHASING OR ACQUIRING ANY INTEREST IN REAL PROPERTY IN FLORIDA ON OR AFTER JULY 1, 2023. LAND ACQUIRED IN VIOLATION OF THIS LAW MAY BE FORFEITED TO THE STATE.

Effective July 1, 2023, *foreign principals* of these *foreign countries of concern* are prohibited from purchasing or acquiring any interest in certain types of Florida real property, subject to limited exceptions:

- The People’s Republic of China
- The Russian Federation
- The Islamic Republic of Iran
- The Democratic People’s Republic of Korea
- The Republic of Cuba
- The Venezuelan regime of Nicolás Maduro
- The Syrian Arab Republic
- Any agency of or any other entity of significant control of such foreign country of concern

### **BUYERS ARE A FOREIGN PRINCIPAL IF ANY OF THESE APPLY TO THEM:**

- (a) The government or any official of the government of a foreign country of concern;
- (b) A political party or member of a political party or any subdivision of a political party in a foreign country of concern;
- (c) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, or a subsidiary of such entity;
- (d) Any person who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States, or
- (e) Any person, entity, or collection of persons or entities, described in paragraphs (a) through (d) having a controlling interest in a partnership, association, corporation, organization, trust, or any other legal entity or subsidiary formed for the purpose of owning real property in Florida.

### **IF A BUYER IS A FOREIGN PRINCIPAL, FLORIDA LAW PROHIBITS THEM:**

- From purchasing or acquiring any interest in real property in Florida classified as agricultural land<sup>1</sup> or within 5 miles of a military installation.<sup>2</sup>
- With limited exceptions, from purchasing or acquiring any interest in real property in Florida within 10 miles of a critical infrastructure facility or military installation<sup>3</sup>

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<sup>1</sup> Agricultural land is defined to be that which has “agricultural classification” under F.S. 193.461.

<sup>2</sup> “Military Installation” means a base, camp, post, station, yard, or center encompassing at least 10 contiguous acres that is under the jurisdiction of the Department of Defense or its affiliates. Sec. 692.201(5), F.S.

<sup>3</sup> “Critical infrastructure facility” means any of the following, if it employs measures such as fences, barriers, or guard posts that are designed to exclude unauthorized persons:

- (a) A chemical manufacturing facility.
- (b) A refinery.
- (c) An electrical power plant as defined in s. 403.031(20).
- (d) A water treatment facility or wastewater treatment plant.
- (e) A liquid natural gas terminal.
- (f) A telecommunications central switching office.



- NOTE: Foreign principals of the People’s Republic China are prohibited from purchasing or acquiring any interest in any real property in Florida regardless of its classification, subject to the Limited Residential Exception and Diplomatic Purposes Exception described below

**CERTAIN EXCEPTIONS MAY APPLY:**

- Limited Residential Exception - If the Buyer is a ‘natural person’ subject to the law, they may still purchase one residential real property, up to 2 acres in size, if all of the following apply:
  - (a) The parcel is not on or within 5 miles of any military installation;
  - (b) Buyer has a current verified United States visa that is not limited to authorizing tourist-based travel or official documentation confirming that the person has been granted asylum in the United States and such visa or documentation authorizes the person to be legally present in Florida;
  - (c) The purchase is in the Buyer’s name, i.e., the name of the person who holds the visa or official documentation described in paragraph (b), and
  - (d) The Buyer is only entitled to one residential property as described above.
- Diplomatic Purposes Exception - The real property is for diplomatic purposes as recognized, acknowledged, or allowed by the Federal Government

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(g) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.  
(h) A seaport as listed in s. 311.09.  
(i) A spaceport territory as defined in s. 331.303(18)  
(j) An airport as defined in s. 333.01.

# City of Palm Coast, Florida Agenda Item

**Agenda Date:** November 14, 2023

<b>Department</b> CITY ADMINISTRATION <b>Division</b>	<b>Amount</b> <b>Account #</b>
<b>Subject:</b> AGENDA WORKSHEET AND CALENDAR	
<b>Presenter:</b> Kaley Cook, City Clerk	
<b>Attachments:</b> 1. Agenda Worksheet 2. Calendar	
<b>Background:</b>	
<b>Recommended Action:</b>	

	<b>December 5, 2023 BUSINESS MEETING</b>	<b>PRESENTER</b>
Resolution	Piggyback with Motion Industries	Ashburn
Resolution	Grant Agreement - Fire Station 26	Cote
Resolution	Utility Rate Study Approval	Flanagan
Ordinance 2nd	Amendment to Solicitation Ordinance	Grossman
Ordinance 2nd	Old Kings Village Rezoning	Hoover
Proclamation	Boat Parade	Kershaw
Ordinance 1st	Sign Code	Lens
Resolution	Whiteview Phase II Final Plat	Leap/Lens
Resolution	Parks Master Plan - Final Report	McDermott/Hirst
Resolution	Piggyback for Electrical Supplies	Melley
Resolution	Agreement with Mission Communications	Melley
Ordinance 1st	Landings Community Development District Boundary Expansion	Nguyen
Ordinance 1st	Town Center Planned Unit Development Amendments	Papa
Resolution	Town Center Development of Regional Impact Amendments	Papa
Ordinance 2nd	Old Kings Village Future Land Use Map	Papa
Resolution	Installation Of New and Replacement PEP Tanks	Roussell
Resolution	Workorder for Rehab of Wells	Rousell
Resolution	Piggyback for Motor Repair Services	Rousell
Resolution	Piggyback for Treatment Chemicals	Rousell
Resolution	Forestar Contracts	Smith
	<b>December 12, 2023 WORKSHOP MEETING</b>	<b>PRESENTER</b>
Presentation	Wireless Master Plan	Akins
Resolution	Florida Department of Transportation (FDOT) Agreement for Matanzas Woods/Palm Coast Parkway Connector Loop Phase II	Cote
Resolution	FPL Relocation Expenses for Matanzas Woods/Palm Coast Parkway Connector Loop	Cote
Presentation	Budget at a Glance FY 23	Johnston
Presentation	Sports Complex Feasibility Study	Johnston
Presentation	Rentals (Airbnb)	Grossman
Presentation	Annual Citizen's Survey	Kershaw
Resolution	Community Development Block Grant (CDBG) Annual Report	Papa/Gonzalez
Resolution	Update to Local Housing Assistance Plan (LHAP)	Papa/Gonzalez
	<b>December 19, 2023 BUSINESS MEETING</b>	<b>PRESENTER</b>
Resolution	Piggyback for Kronos	Akins
Resolution	Work Order - Citation Boulevard Reclaimed Watermain Extension	Blake
Resolution	Florida Department of Transportation (FDOT) Agreement for Matanzas Woods/Palm Coast Parkway Connector Loop Phase II	Cote
Resolution	FPL Relocation Expenses for Matanzas Woods/Palm Coast Parkway Connector Loop	Cote
Presentation	FIND Grant Agreement for Waterfront Park Phase 2	Gebo
Ordinance 1st	Belle Terre & US 1 Rezoning	Hoover
Resolution	Old Kings Multi Family Master Site Plan Tier 3	Hoover
Resolution	Colbert Landings Final Plat	Leap/Lens
Ordinance 2nd	Sign Code	Lens
Resolution	Contract for Overhead Door Maintenance and Repairs	Mancill
Resolution	Contract for Fire Alarm Monitoring	Mancill
Ordinance 2nd	Landings Community Development District Boundary Expansion	Nguyen
Ordinance 2nd	Town Center Planned Unit Development Amendments	Papa
Ordinance 1st	Belle Terre & US 1 Future Land Use Map	Papa
Resolution	Community Development Block Grant (CDBG) Annual Report	Papa/Gonzalez
Resolution	Update to Local Housing Assistance Plan (LHAP)	Papa/Gonzalez

	<b>Future</b>	<b>PRESENTER</b>
Resolution	Cigar Lake Effluent Pump Station Filter Upgrades	Ashburn
Resolution	Cleaning and Rehabilitation of Ground Storage Tank at Waste Water Plant 1	Ashburn
Resolution	Reuse Distribution System Filtration Upgrades	Ashburn
Resolution	Above Ground Piping Rehab for Water Treatment Plant 1	Ashburn
Presentation	Fire Suppression Fleet Capital Plan	Berryhill
Resolution	Indian Trails Sports Complex Reclaim Water Extension	Blake
Resolution	Construction Contract for the Old Kings Road Force Main to Waste Water Treatment Plant 1	Blake
Resolution	Construction Contract for the Water Treatment Plant 1 Generator Project	Blake
Resolution	Construction Contract for the Water Treatment Plant 1 Sludge Dewatering Project	Blake
Ordinance	Construction Contract for the Equip Wells SW-1, SW-2 & SW-3 for Water Treatment Plant 1	Blake
Resolution	Supervisor of Elections Interlocal Agreement for 2024 Elections	Cook
Resolution	Residential Study for Speed Limit Posting	Cote
Resolution	Construction Contract for Old Kings Road Widening North Phase 2	Cote
Resolution	Matanzas/Bird of Paradise Intersection (Right-of-Way)	Cote
Resolution	Old Kings Road South Phase 2 Study	Cote
Resolution	Old Kings Road South Phase 2 Engineering Design Services	Cote
Resolution	FDOT Agreement for Belle Terre Safety Improvements	Cote
Resolution	FDOT Agreement for Old Kings Road North Phase 2 Widening	Cote
Resolution	FDOT Agreement for Old Kings Road South Phase 2 Study	Cote
Resolution	Construction Manager Agreement for Matanzas Woods/Palm Coast Parkway Connector Loop	Cote
Resolution	Matanzas Woods/Palm Coast Parkway Connector Loop CM Agreement Maximum Price Amendment for Phase 1 Construction	Cote/Blake
Resolution	Matanzas Woods/Palm Coast Parkway Connector Loop Phase 1 Right-of-Way	DeLorenzo
Presentation	Strategic Action Plan - Building and Planning Level of Service	DeLorenzo
Resolution	Occupational Services	Fuller
Resolution	Grant Agreement for Fire Station 26	Gebo
Resolution	Palm Coast Parkway Banners - Childhood Cancer Awareness	Gonzalez
Ordinance 1st	Animal Control Amendment	Grossman
Ordinance	No Smoking Ordinance	Hirst
Resolution	Old Kings Multi Family Master Site Plan Tier 3	Hoover
Resolution	Savannah at Seminole Pointe Master Site Plan Tier 3	Hoover
Ordinance	Colbert Lane Master Plan Development	Hoover
Resolution	Old Kings Storage Facility Technical Site Plan	Lens
Resolution	Wireless Communication Facility - 7 Clubhouse Drive	Lens
Resolution	Cell Tower Master Plan Modification	Lens
Resolution	Sawmill Branch Phase 2B	Lens/Leap
Ordinance	Sawmill Branch Phase 6	Lens
Ordinance	Seminole Trails	Lens
Resolution	Flagler Village Final Plan	Lens/Leap
Resolution	Reverie at Palm Coast Phase II	Lens/Leap
Resolution	Hammock at Palm Harbor	Lens/Leap
Resolution	Seminole Palms Phase I	Lens/Leap
Resolution	Retreat at Town Center Phase II	Lens/Leap
Resolution	Installation Of New and Replacement PEP Tanks	Melley
Resolution	K-Section Drainage Improvements Additional Design	Morales
Resolution	Blare and Colbert Culvert Crossing Upgrades	Morales
Resolution	P-1 Weir Replacement	Morales
Resolution	Grant Agreement for P-1 Weir Replacement	Morales
Ordinance	Dry Lake Rezoning	Nguyen
Resolution	The Promenade	Nguyen
Resolution	The Station at Town Center - TH - Town Center Tracts 18B & 18C	Nguyen/Lens

Ordinance	Lakeside Estates Future Land Use Map	Papa
Ordinance	Lakeside Estates Master Planned Development Amendment	Hoover
Ordinance	Town Center Master Planned Development	Papa
Resolution	Pre-Annexation Agreement for Airport Commons II	Papa
Ordinance	The Gardens	Papa
Resolution	Transportation Impact Fee Study	Papa/DeLorenzo
Resolution	Legacy at Town Center - Tract 18 Technical Site Plan Tier 3	Planning
Resolution	800 Matanzas Woods Parkway Easement	Smith



## Meeting Calendar for 12/5/2023 through 5/4/2024

**12/5/2023 10:00 AM**

Animal Control Hearing  
City Hall

**12/5/2023 6:00 PM**

City Council  
City Hall

**12/6/2023 10:00 AM**

Code Enforcement Board  
City Hall

**12/7/2023 5:00 PM**

Beautification and Environmental Advisory Committee  
City Hall

**12/12/2023 9:00 AM**

City Council Workshop  
City Hall

**12/19/2023 9:00 AM**

City Council  
City Hall

**12/20/2023 5:30 PM**

Planning & Land Development Regulation Board  
City Hall

**1/2/2024 6:00 PM**

City Council Business Meeting  
City Hall





**Meeting Calendar for 12/5/2023 through 5/4/2024**

**1/3/2024 10:00 AM**

Code Enforcement Board  
City Hall

**1/9/2024 9:00 AM**

City Council Workshop  
City Hall

**1/16/2024 9:00 AM**

City Council Business Meeting  
City Hall

**1/17/2024 5:30 PM**

Planning & Land Development Regulation Board  
City Hall

**1/25/2024 5:00 PM**

Beautification and Environmental Advisory Committee  
City Hall

**2/6/2024 6:00 PM**

City Council Business Meeting  
City Hall

**2/7/2024 10:00 AM**

Code Enforcement Board  
City Hall

**2/13/2024 9:00 AM**

City Council Workshop  
City Hall



**Meeting Calendar for 12/5/2023 through 5/4/2024**

**2/20/2024 9:00 AM**

City Council Business Meeting

City Hall

**2/21/2024 5:30 PM**

Planning & Land Development Regulation Board

City Hall

**2/22/2024 5:00 PM**

Beautification and Environmental Advisory Committee

City Hall

**3/5/2024 6:00 PM**

City Council Business Meeting

City Hall

**3/6/2024 10:00 AM**

Code Enforcement Board

City Hall

**3/12/2024 9:00 AM**

City Council Workshop

City Hall

**3/19/2024 9:00 AM**

City Council Business Meeting

City Hall

**3/20/2024 5:30 PM**

Planning & Land Development Regulation Board

City Hall



**Meeting Calendar for 12/5/2023 through 5/4/2024**

**3/26/2024 9:00 AM**

City Council Special Budget Workshop  
City Hall

**3/28/2024 5:00 PM**

Beautification and Environmental Advisory Committee  
City Hall

**4/2/2024 6:00 PM**

City Council Business Meeting  
City Hall

**4/9/2024 9:00 AM**

City Council Workshop  
City Hall

**4/16/2024 9:00 AM**

City Council Business Meeting  
City Hall

**4/17/2024 5:30 PM**

Planning & Land Development Regulation Board  
City Hall

**4/23/2024 9:00 AM**

City Council Special Budget Workshop  
City Hall

**4/25/2024 5:00 PM**

Beautification and Environmental Advisory Committee  
City Hall