

**MEMORANDUM**  
**FROM THE OFFICE OF THE CITY MANAGER**

**To:** Mayor and City Commission  
**From:** Pam Brangaccio, City Manager *QDB*  
**Re:** City Manager's Report – January 14, 2014  
**Date:** January 7, 2014

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City Events:

The City picked up three awards from the Surfcoast Chapter of the Florida Planning & Zoning Association in December; the Outstanding Planning Study for the Interlocal Service Agreement with Volusia County; the Outstanding Public Private Partnership for the Hampton Inn; and the Outstanding Innovation & Design for Esther Street Beachfront Park & Stormwater Treatment Project.

In keeping with Commission discussion at the December 2013 Strategic Planning Session; four previously scheduled Saturday February meetings (preparation for the March 22th Visioning Session), have been revised to one Saturday, Feb 1<sup>st</sup>, and expanded to include more “outside activities” with a survey on priorities set up for the January 18<sup>th</sup> Business Expo on Canal Street, and the Feb 7-8<sup>th</sup> Black Heritage Festival at Pettis Park. Attached is a draft of the survey questions & press release for the events. CLAUDIA GET FROM HOLLY. The City & CRA will be sharing a booth at the January 18<sup>th</sup> event, City staff will be present for the public.

A series of community meetings on the proposed CRA for US 1 are scheduled, beginning January 13<sup>th</sup> 2014 and are set as follows:

- 11 a.m. Monday, January 13, at the Alonzo “Babe” James Center, 201 N. Myrtle Avenue.
- 6 p.m. Tuesday, January 14, at the Brannon Center, 105 S. Riverside Drive.
- 1 p.m. Wednesday, January 15, at the New Smyrna Beach Police Station, 246 Industrial Park Avenue.
- 6 p.m. Tuesday, January 21, at the Waterway West Clubhouse, 315 N. Causeway
- 6 p.m. Thursday, January 23, in Commission Chambers at New Smyrna Beach City Hall, 210 Sams Avenue

We are nearing 100% completion on the new Swoope Boat ramp, a grand opening will be scheduled for no later than February 2014. The parking lot at West Canal & US 1 opened as well in early 2014. There will also be a ground breaking for the Pedestrian Trail in February, as the construction contract will take 240 days (8 months). We are already talking about linkages to the Edgewater Trail in the near future.

The 2014 Volusia League of Cities meeting season starts on Thursday January 23<sup>th</sup> in Ponce Inlet. RSVPs are due by January 17<sup>th</sup>. Images weekend is coming up on January 24-26<sup>th</sup> as well, as 2014 begins.

Mrs. Sandy Winkler will be rejoining us all on January 13<sup>th</sup>, we appreciate the work that Claudia Soulie has done, in the interim position. We could not do our jobs, without these two wonderful ladies.

#### Work Items of Note:

The City staff has followed up with FDOT to formalize the \$500,000 grant, to match CRA funding for North Causeway Beautification. A copy of the conceptual plan is in the City Commission Office. The Conceptual Plan was required to submit the FDOT grant. The next step is a survey to identify FDOT & City ROW for the design process.

Planning continues on a Joint Meeting with the City of Edgewater for March 18<sup>th</sup>, two agenda items have been set 1) US 1 CRAs and 2) Indian River lagoon. If there are other items for discussion, just let the CM know.

Attached is the draft fertilizer ordinance being discussed by Volusia County to address water quality for discussion with the City of Edgewater.

There is an agenda item for this evening, for additional engineering work on the Phase III Improvements, Central Beach Flood Mitigation (Funded by a \$5M FEMA GRANT). A Letter to Ms. Helen Johnson is attached to the agenda item, requesting additional funding to complete the long-awaited project.

There is also an agenda item for this evening, with a schedule & bid specifications for Canal Calore, which the Commission included in the FY 13-14 Budget. ½ of the costs will be reimbursed to the City through an assessment on the canal front property owners in FY 2014-15. The project will be completed this summer.

Another 1/14/14 agenda item is a required update to the federal flood zone maps, required to participate in the federal flood insurance program. The City has already issued a press release advising property owners to check the new maps, for individual impact on their properties.

An agenda item is under preparation for a formal agreement with the County, for \$120,000 to complete the Flagler Beach Renovations, in the form of a completed seawall across the ROW, to facilitate the move of the County's Lifeguard HQ, off of

City owned beachfront. The Commission previously approved on November 8, 2011 the payment to the County. It is included in tonight's Budget transfer, from the CRA Budget, which was the original funding source of the Flagler Ave Beach Park improvements.

The St. Johns River Water Management District on January 6<sup>th</sup>, issued the Stormwater Management Permit for the Colony Road Extension (Copy attached); as we get closer to bidding out this project. The Commission in 2013, approved the construction profile for the roadway. All of the Road Impact Fee Reserve Balance has been transferred in support of this project. There is an additional \$84,926.50 that the City staff would recommend be expended from the Road Impact Fee Fund (as soon as new funds are available in the road impact fee fund, and after an award of construction contract for Colony Road Extension). A draft proposal is attached from Parker Mynchenberg to conduct a feasibility study for an extension of Paige Ave (south side of SR 44). When funds are available, the proposal would be a formal agenda item for approval of the Commission.

The City has previously issued a letter to Waverly Media, advising the Company that the City believes they are in default of their current contract (which ends in summer 2014). Attached is an additional correspondence from Disability Fairness.org on ADA compliance at the various bus benches. The City Attorney and City Manager have met with representatives of the Company on the first default letter, in which they requested a field review, with the City Code Enforcement Staff, on the bench locations.

A FAA conference call was held on the Disk Golf proposal for airport owned property, along US 1. The FAA stated that non-aviation utilization leases should be 10 to 12% of the appraised value of the property, or the City will be in violation of the FAA grant conditions. In 2014, the City received \$2M in FAA improvement grants. Mr. Varano was made aware of FAA lease requirements and Commissioner Jones is working with staff to look at other non-airport sites.

Staff research has begun on Maritime Master Plans, funded by FIND, as a result of the Commission's discussion in December on the North Causeway. A grant could be submitted to FIND, if desired in 2014.

A draft agreement has been received from the County for South Atlantic Beach Park (copy attached) which is being scheduled for the January 28<sup>th</sup> Commission Meeting.

Just for fun, City staff counted up 25 major 2014 projects (List attached); all of which are complex, multi-layered, interesting, challenging, but great for the Community & future in NSB. The City staff looks forward to a productive & interesting year, working with the Mayor & City Commission.

Should you have any questions or need additional information, just give us a call.

## **Brangaccio, Pam**

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**From:** City of NSB News  
**Sent:** Monday, December 23, 2013 4:00 PM  
**Subject:** News release: NSB earns three awards from state planning and zoning association

**December 23, 2013**

### **News media contacts:**

Planning study award: Gail Henrikson, 386.424.2134

Public Private Partnership award: Tony Otte, 386.424.2265

Innovation and Design award: Kyle Fegley, 386.424.2168

### NEWS FOR IMMEDIATE RELEASE

## **New Smyrna Beach earns awards from state planning and zoning association**

Three projects have earned the City of New Smyrna Beach recognition from planning and zoning professionals. The Surfcoast Chapter of the Florida Planning and Zoning Association (FPZA) presented the awards at its January 13 Holiday Awards Gala in New Smyrna Beach. The awards the City received are:

- - Outstanding Planning Study for the City's Interlocal Service Boundary Agreement
- - Outstanding Public Private Partnership for the Hampton Inn New Smyrna Beach
- - Outstanding Innovation and Design for Esther Street Beachfront Park

"We embark on these projects and initiatives to better serve our residents and visitors," said New Smyrna Beach City Manager Pam Brangaccio. "It's also nice when industry peers recognize the value in your efforts."

The FPZA is a statewide nonprofit organization of planners and other professionals dedicated to planning and developing a quality Florida, and a place for planners to exchange information and assist each other, according to the association's website [www.fpza.org](http://www.fpza.org).

-30-



\_\_\_ Trails and other transportation issues

\_\_\_ Upcoming transition from the current Community Redevelopment Area (CRA) to the redevelopment of U.S. 1

January 8, 2014

**News media contacts:**

Gail Henrikson, planning manager, 386.424.2134

**DRAFT**

NEWS FOR IMMEDIATE RELEASE

**New Smyrna Beach prepares to ‘chart its course’; community input needed**

It's all hands on deck for the next few months in New Smyrna Beach. As the city embarks on a quest to develop a 25-year vision, community members are needed to help to develop the sail plan. Dubbed "Charting our Course: NSB 2039," a key component of the initiative includes using public input as a rudder to steer the planning process.

"The City stays quite busy dealing with projects and day-to-day operations," said New Smyrna Beach Mayor Adam Barringer. "We need to plan ahead – far ahead – to position ourselves for opportunities to come. To have a successful and well rounded approach to our future, we need a wide-range of public input."

The City will launch its initiative from 8:30 a.m. – noon, Saturday, February 1, at the Brannon Center, 105 S. Riverside Drive, New Smyrna Beach.

"During the first public meeting, citizens will be asked to rank and provide input on future city-wide priorities and identify issues of broad concern," said Pam Brangaccio, New Smyrna Beach city manager. Residents also will help to prepare the community for opportunities and challenges that may occur in the next 25 years.

To ensure all residents of the City have a voice, City staff will hit the streets beginning this month to survey citizens on their priorities, Brangaccio added. The first survey will be conducted at the Home Show and Business Expo January 18 along Canal Street. Staff also will survey attendees at the Black Heritage Festival February 79 in Pettis Park. Additional survey opportunities are being scheduled.

Once survey response trends have been identified, topics will be narrowed for a more focused discussion from 8 a.m. – 4 p.m., Saturday, March 22, at the Brannon Center. Rebecca Ryan, nationally-renowned futurist will lead the forum and subject matter experts will work

"We're starting with 13 major community issues ranging from financial strategy to environmental protection to economic development, to name a few," Brangaccio said.

"The community will help us to trim and prioritize the list."

The visioning plan will be drafted using survey and public input following the March 22 meeting. The community's suggested course will be presented at 8:30 a.m., Saturday, April 12, at the Brannon Center. City Commission workshops to discuss the next steps could follow in May, Brangaccio said.

For more information on the City's visioning initiative, please contact the New Smyrna Beach Planning Department at (386) 424-2132.



## PROPOSED US 1 COMMUNITY REDEVELOPMENT AGENCY (CRA) DRAFT MASTER PLAN REVIEW MEETINGS



### ***COME BE A PART OF VISION 2045!***

When community members provided input for the development of the City's proposed new US 1 Community Redevelopment Agency (CRA) Master Plan in August, staff and the consultants preparing the master plan were taking notes. Now that the draft master plan has been prepared, community members are encouraged to review it and provide input during January public meetings.

Meetings will be held as follows:

- 11 a.m. Monday, January 13, at the Alonzo "Babe" James Center, 201 N. Myrtle Avenue.
- 6 p.m. Tuesday, January 14, at the Brannon Center, 105 S. Riverside Drive.
- 1 p.m. Wednesday, January 15, at the New Smyrna Beach Police Station, 246 Industrial Park Avenue.
- 6 p.m. Tuesday, January 21, at the Waterway West Clubhouse, 315 N. Causeway
- 6 p.m. Thursday, January 23, in Commission Chambers at New Smyrna Beach City Hall, 210 Sams Avenue

The same presentation will be given at each meeting so it is not necessary to attend all meetings unless interested.

The proposed CRA includes U.S. 1 from just north of the municipal airport to the southern City limits, the airport and the surrounding industrial area, all of the Historic Westside Community that is in the City limits, the Canal Street Historic District and the area around the hospital, a portion of SR 44 to include the former K-Mart building, and contiguous residential areas. Reservations are not required but you may reserve a seat by calling Donna M. Gray-Banks, community resource coordinator, at 386.314.4849.



**NORTH CAUSEWAY BEAUTIFICATION PLAN**  
**City of New Smyrna Beach, Florida**

The following is an Engineer's Cost Estimate for the Conceptual Plan for the above referenced project. Please be aware that this is just an estimate of costs. Due to economic conditions, prices may vary according to location, size of project, and/or quantity and type of materials, which are incorporated in the design.

**West Side**

**HARDSCAPE ITEMS**

<u>QTY</u>	<u>LINE ITEM</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
(2)	Entry Signs 6'x30'	\$15,000.00	\$ 30,000.00
(4)	Pedestrian Shelters	\$ 4,500.00	\$ 18,000.00
(4)	Concrete Pad /Foundation for Shelter	\$ 1,500.00	\$ 6,000.00
(4)	6' Bench	\$ 800.00	\$ 3,200.00
(4)	32-Gal Steel Receptacles with Shield	\$ 1,500.00	\$ 6,000.00
(9)	Light Poles with wiring	\$5,000.00	\$ 45,000.00
20 SY	Brush Fin Concrete Sidewalk Six-foot (6') wide	\$35.00 SY	\$ 700.00
114LF	Asphalt-pavement Textured Walkways Six-foot (6') wide	\$66.00 SY	\$ 7,524.00
(1)	Neighborhood Signs 4'x10'	\$8,000.00	\$ 8,000.00
(6)	Truncated Domes	\$250.00	\$ 1,500.00
<b>Subtotal</b>			<b>\$ 125,924.00</b>

**LANDSCAPE PLANT MATERIALS (incl installation)**

<u>QTY</u>	<u>LINE ITEM</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
(49)	4" Oak Shade Trees (100 Gal)	\$520.00	\$25,480.00
	Entry Sign Plantings		
(5)	Medjool Palms 12'CT	\$5,700.00	\$ 28,500.00
(110)	Assorted Shrubs 3 Gal	\$15.00	\$ 1,650.00
(110)	Ground Covers 1 Gal	\$ 5.00	\$ 550.00
	Neighborhood Entrance Plantings (Quay Assisi)		
(2)	Medjool Palm 12'CT	\$5,700.00	\$11,400.00
	ALT: Bismark Palm @ \$ 3,500 each		
	ALT: (7) Cabbage Palms/(1) Crepe Myrtle @ \$ 2,800 ea		
(50)	Assorted Shrubs 3 Gal	\$15.00	\$ 750.00
(60)	Ground Covers 1 Gal	\$ 5.00	\$ 300.00
(1) Lump Sum	MULCH/FERTILIZER/STAKING	\$3,500.00	\$ 3,500.00
(1) Lump Sum	Site Preparation (Removal of Existing Landscape Plant Materials, Soil Preparation, etc.)	\$ 1,500.00 ea	\$ 1,500.00
(5)	Approx Bahia Sod	\$250.00/pal	\$ 1,250.00
<b>Subtotal</b>			<b>\$ 74,880.00</b>

**LANDSCAPE IRRIGATION MATERIALS**

<u>QTY</u>	<u>LINE ITEM</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
(30)	Irrigation Shrub Heads and Lateral Line connection	\$ 25.00	\$ 750.00
(50)	Irrigation Flood Bubblers	\$ 20.00	\$ 1,000.00
(3)	Solenoid Valves	\$ 250.00	\$ 750.00
(2)	Controller and Rain Sensor	\$ 850.00	\$ 1,700.00
1,350LF	SCH 40 PVC Main Line 1.5"	\$ 5.00	\$ 6,750.00
150 LF	Directional Bore, 2"	\$ 100.00	\$ 15,000.00
(2) Lump Sum	Meter & Backflow Device	\$ 1,000.00	\$ 2,000.00
(2) Lump Sum	Connection Fees	\$ 5,600.00	\$ 11,200.00
<b>Subtotal</b>			<b>\$ 39,150.00</b>

GENERAL CONDITIONS, BOND, MAINTENANCE OF TRAFFIC/MOBILIZATION (10%) \$ 24,000.00

CONTINGENCY (5%) \$ 12,000.00

**APPROXIMATE CONSTRUCTION COST-WEST SIDE ..... \$ 275,954.00**

REV12/17/13

**NORTH CAUSEWAY BEAUTIFICATION PLAN**  
**City of New Smyrna Beach, Florida**  
**East Side**

**HARDSCAPE ITEMS**

<u>QTY</u>	<u>LINE ITEM</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
(5)	Pedestrian Shelters	\$ 4,500.00	\$ 22,500.00
(5)	Concrete Pad / Foundation for Shelter	\$ 1,500.00	\$ 7,500.00
(5)	Bench	\$ 1,100.00	\$ 5,500.00
(5)	32-Gal Steel Receptacles with Shield	\$ 800.00	\$ 4,000.00
(11)	Light Poles with wiring	\$5,000.00	\$ 55,000.00
1,000 SY	Brush Fin Concrete Sidewalk Six-foot (6') wide	\$35.00 SY	\$ 35,000.00
300 SY	Asphalt-pavement Textured Walkways Six-foot (6') wide	\$66.00 SY	\$ 19,800.00
4,500CY	Fill for Meandering Sidewalk	\$10.00 CY	\$ 45,000.00
640 SY	Reinforced Grass Parking	\$54.00 SY	\$ 34,560.00
(2)	Neighborhood Signs 4'x10'	\$8,000.00	\$ 16,000.00
(30)	Truncated Domes	\$250.00	\$ 7,500.00
1,040 LF	Refuge Island Curbing	\$15.00 LF	\$ 15,600.00
(1) Lump Sum	Refuge Islands Excavation with New Soil	\$ 15,000.00 EA	\$ 15,000.00
	<b>Subtotal</b>		<b>\$ 282,960.00</b>

**LANDSCAPE PLANT MATERIALS (incl installation)**

<u>QTY</u>	<u>LINE ITEM</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
(61)	4" Oak Shade Trees (100 Gal)	\$520.00	\$ 31,720.00
(10)	Neighborhood Entrance Plantings		
	(1) Medjool Palm 12'CT	\$5,700.00	\$ 57,000.00
	(25) Assorted Shrubs 3 Gal	\$15.00	\$ 3,750.00
	(30) Ground Covers 1 Gal	\$ 5.00	\$ 1,500.00
1.875LF	Vegetative Screen		
	(850) Shrubs 3 Gal	\$15.00	\$ 12,750.00
	(65) Understory Trees	\$200.00	\$ 13,000.00
500 LF	Refuge Island Plantings		
	(17) Accent Plants	\$35.00	\$ 595.00
	(400) Shrubs 3 Gal	\$15.00	\$ 6,000.00
	(13) Understory Trees	\$200.00	\$ 2,600.00
	(170) Ground Cover 1 Gal	\$5.00	\$ 850.00
(1) Lump Sum	MULCH/FERTILIZER/STAKING	\$ 23,500 Ea	\$ 23,500.00
(1)Lump Sum	Site Preparation (Removal of Existing Landscape Plant Materials, Soil Preparation, etc.)	\$ 5,000 Ea	\$ 5,000.00
(80)	Approx Bahia Sod	\$250.00/pal	\$ 20,000.00
	<b>Subtotal</b>		<b>\$ 178,265.00</b>

**LANDSCAPE IRRIGATION MATERIALS**

<u>QTY</u>	<u>LINE ITEM</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
(450)	Irrigation Shrub Heads and Lateral Line connection	\$25.00	\$ 11,250.00
(100)	Irrigation Flood Bubblers	\$20.00	\$ 2,000.00
(10)	Solenoid Valves	\$250.00	\$ 2,500.00
(2)	Controller and Rain Sensor	\$850.00	\$ 1,700.00
2,550LF	SCH 40 PVC Main Line 1.5"	\$ 5.00	\$ 12,750.00
500 LF	Directional Bore, 2"	\$ 100.00	\$ 50,000.00
(2) Lump Sum	Meter & Backflow Device	\$ 1,000.00	\$ 2,000.00
(2) Lump Sum	Connection Fees	\$ 5,600.00	\$ 11,200.00
	<b>Subtotal</b>		<b>\$ 93,400.00</b>

GENERAL CONDITIONS, BOND, MAINTENANCE OF TRAFFIC/MOBILIZATION (10%) \$ 55,500.00

CONTINGENCY (5%) \$ 27,750.00

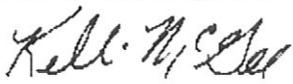
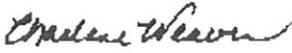
**APPROXIMATE CONSTRUCTION COST-WEST SIDE ..... \$ 637,875.00**  
**TOTAL CONSTRUCTION COST .... \$ 913,829.00**  
**PLUS SURVEY, DESIGN & PERMITTING..... \$ 85,000.00**  
**TOTAL PROJECT COST..... \$ 998,829.00**

City of New Smyrna Beach  
North Causeway Beautification  
Project Description

The North Causeway project is intended to provide a safer pedestrian friendly atmosphere and enhance the appearance of the roadway and existing commercial/residential areas fronting on the right-of-way.

The Project would include

1. Islands in the median with pedestrian refuge areas
2. Shade trees of varying size and species for a "Bold Landscaping" treatment
3. Pedestrian Shelters to provide a rest area out of the sun for pedestrians
4. New sidewalk on the north side of the roadway to create more of a pedestrian loop and to encourage more use of the pedestrian system
5. Screening on the north side to enhance areas developed prior to today's landscape requirements
6. Entry sign at Riverside Drive as well as select neighborhood signs to promote a sense of community
7. Stamped asphalt "wave pattern" crosswalks for pedestrian safety and to further carry the overall theme into the community.
8. Removal of bollard lighting which has maintenance issues and the installation of new decorative lighting system to provide a safer environment for all hours of the day
9. Develop new pervious on-street parking to better serve the needs of the commercial components of the community.

<b>Date:</b> 12/12/2013		<b>AGENDA ITEM</b>		<b>Item:</b> 31
<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Budget Resolution	<input checked="" type="checkbox"/> Other	
<b>Department:</b> Growth And Resource Management				
<b>Division:</b> Environmental Management				
<b>Subject:</b> Discusssion of fertilizer ordinance.				
<b>Kelli McGee</b> Director Growth and Resource Management 		<b>Legal</b>  <b>Jamie E. Seaman</b> County Attorney  	<b>County Manager's Office</b>  <b>Charlene Weaver, CPA, CFO</b> Deputy County Manager  	
<b>Ginger Adair</b> Director Environmental Services 		Approved as to Form and Legality		
<b>Council Action:</b>				
<b>Modification:</b>				
<b>Account Number(s):</b> NA				
<b>Total Item Budget:</b> NA				
<b>Staff Contact(s):</b>		<b>Phone:</b>	<b>Ext.</b>	
Kelli McGee		386 822 5013	12000	
Ginger Adair		386 736 5927	12059	
<b>Summary/Highlights:</b>				
As part of the county's long-standing commitment to the protection of water quality, the county council has requested that staff research and present options for controlling nutrient pollution from fertilizer. Nitrogen and phosphorous from fertilizer are contributing factors to excess nutrients in our waterways, including the Indian River Lagoon, our springs, and the St. Johns River. The state Department of Environmental Protection has developed a model fertilizer ordinance intended to assist local governments in crafting regulations to reduce the amount of fertilizer runoff.				
Staff will present the elements of the state model ordinance and compare ordinances adopted by neighboring local governments.				
<b>Recommended Motion:</b> Direction.				



# MODEL RESIDENTIAL FERTILIZER ORDINANCE



VOLUSIA COUNTY  
COUNCIL MEETING



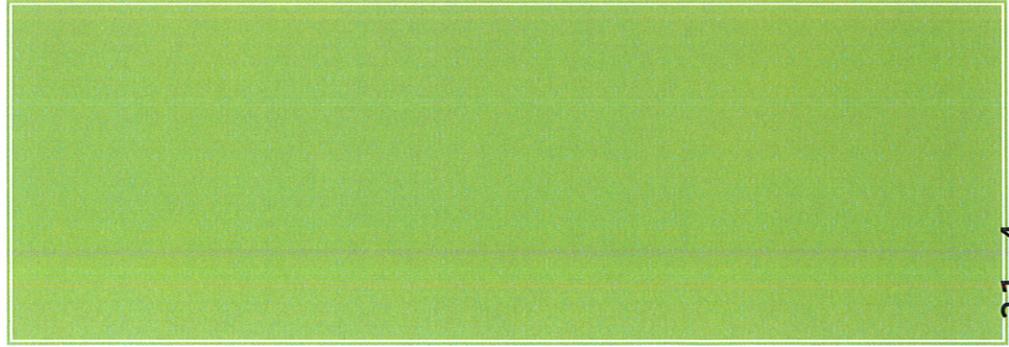
2

## The problem:

Excessive nutrients (nitrogen and phosphorus) contribute to declines in water quality.

# Sources of nutrients

3



31-4

31 1472 Discussion of fertilizer ordinance.

Credit: World Resources Institute, Hans W. Paerl, 2006 31-4

# Residential Fertilizer

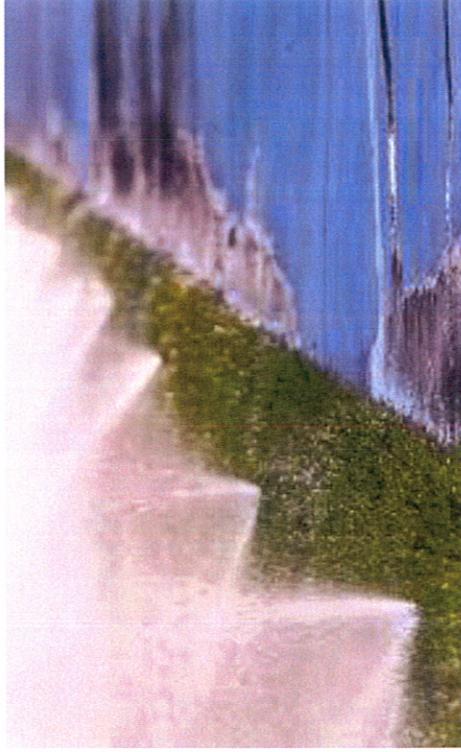
4

- Nitrogen (N) as a component of fertilizer is a stimulant to landscape/turfgrass growth but also a stimulant to the growth of algae/phytoplankton in our waterways. This can lead to algal growth, fish kills, and dying off of seagrass beds.
- Of special concern is the effect of N on the Mosquito Lagoon, the St. Johns River, and our springs.
- Phosphorus (P) is also a concern, but to a lesser extent.

# Fertilizer Nutrient Conveyance

5

Runoff to surface water



Leaching into ground water



31 - 6

31 1472 Discussion of fertilizer ordinance.

31-6

# Fertilizer regulation

Fertilizer regulation standards for the:

- content,
- timing,
- location, and
- method

of fertilizer application

# DEP Model Ordinance

2010

7

## Content and application rate

- N and P content per state rules for turf fertilizers
- No N or P application for first 30-days of seeding/sodding
- Applied at rates as recommended by UF/IFAS

# DEP Model Ordinance

2010

8

## Timing

- No N or P application when
  - Flood watch or warning
  - Tropical storm or hurricane watch or warning
  - heavy rain is likely
  - soils are saturated

# DEP Model Ordinance

2010

9

## Location

- No application within
  - ▣ 10 feet of a surface water body or seawall, or
  - ▣ within 3 feet if using a deflector shield
  
- Voluntary 10 foot low maintenance zone from surface waters, containing plants that do not need fertilizer

31 - 10

31 1472 Discussion of fertilizer ordinance.

31-10

# DEP Model Ordinance

2010

10

## Method

- Broadcast spreaders require a deflector shield
- Remove fertilizer from impervious surfaces
- Grass clippings/vegetative matter are prohibited from storm drains, ditches, water bodies, wetlands, sidewalks or roadways

# DEP Model Ordinance

2010

11

## Enforcement

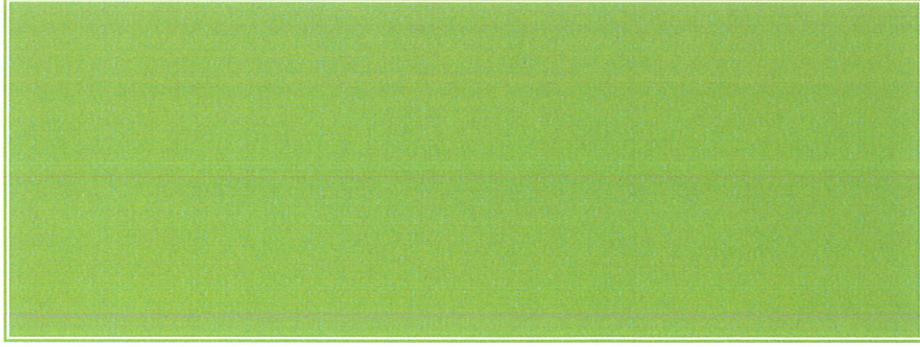
- Bona fide farm operations are exempt
- All commercial or institutional applicators must complete a 6-hour training provided by IFAS.
- Public education

31-12

# Additional Options<sup>1</sup>

12

- Seasonal ban on N and P (summer or winter?)
- Ban or limit P
- Limit the N content up to 50% slow-release
- Limit fertilizer use if re-use water is available (i.e. Blue Spring basin)



# Comparison of local ordinances

13

Jurisdiction	Effective Date	Enforced by	Seasonal Ban	County-wide?	Ban P	Slow release N
Brevard	12.11.12	Unknown	No	No	Low P	Yes
Indian River	8.20.13	Code/PW	June 1 - Sept. 30	Yes	Yes	Yes, 50%
Martin	7.26.11	Unknown	June 1 - Sept. 30	No	Low P	Yes, 50%
Palm Beach	10.30.12	Code	No	No	No	No
St. Lucie	3.1.11	Code	No	No	No	No
Orange	3.1.10	Environ.	June 1 - Sept. 30	Yes	Yes	Yes
Hernando	11.12.13	Code	Jan 1 - March 31*	No	No	No
Deltona	9.16.13	Unknown	No	N/A	No	No
Bogart	4.15.09	Unknown	No	N/A	Yes	Yes, 50%

# Direction

14

- Model ordinance
- County ordinance with elements of the model ordinance or other options
- Exceptions or variances
- Education and outreach:
  - PSA's
  - IFAS training
  - Other





Pam

# City of New Smyrna Beach

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December 20, 2013

Ms. Helen M. Johnson, Planner  
Bureau of Mitigation  
Florida Division of Emergency Management  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399

**Re: Central Beach Flood Mitigation Project  
Phase III Improvements  
City of New Smyrna Beach**

**Subj: FEMA No. FMA-PJ-04-FL-2012-003  
Contract No. 13FM-23-06-74-02-344**

Dear Ms. Johnson:

The purpose of this letter is to respectfully request a budget modification for the above referenced project. The construction cost associated with the original conceptual design, which did not have the benefit of detailed modeling or surveying, was approximated at \$5,040,000. This amount was approved for funding by FEMA under a FMA grant (FMA2012-003) in January 2013. Since then, detailed hydrologic and hydraulic modeling efforts, as well as detailed surveying services, have been performed. However, the new project construction cost, based on the 90% plans, is approximately \$7,394,631 (refer to Attachment 1), which exceeds the current grant amount of \$5,040,000 (\$3,780,000 Federal share).

The primary objective of this crucial project has always been flood protection. Without the implementation of the proposed conveyance improvements, 35 homes within the Central Beach area would continue to suffer structural flooding following a 100-year storm event. The recommended sizes of the storm pipes that serve the Central Beach area is predicated on the detailed hydrologic/hydraulic modeling and detailed surveying which has recently been performed.

The secondary objective of the project is to provide adequate water quality benefits, as required by the St. Johns River Water Management District. In essence, the proposed drainage improvements will not increase pollutant loading discharges into the Indian River.

In an effort to reduce the construction costs without jeopardizing the flood protection and water quality benefits, Pegasus Engineering performed value engineering. In essence, the stormwater management system that was designed based on detailed modeling and surveying was scrutinized and reviewed in detail in order to determine the portions of the stormwater management system that could be revised in order to reduce the total project costs.

We are looking forward to hearing back from you on this important matter. In closing, the City of New Smyrna Beach greatly appreciates the support that DEM has provided on this project and we are looking forward to a successful implementation of the proposed flood mitigation improvements.

If you have technical questions or require clarification, please contact David Hamstra with Pegasus Engineering, LLC at 407-992-9160, extension 309, or via email at david@pegasusengineering.net. You can also contact me directly at 386-424-2265, or via email at Kresheidat@cityofnsb.com.

Very truly yours,

A handwritten signature in black ink, appearing to read 'K. Resheidat', written over a light blue horizontal line.

Khalid N. Resheidat, P.E.  
Assistant City Manager

cc: Pam Brangaccio, City Manager  
Kyle Fegley, City of New Smyrna Beach  
Randy Wright, City of New Smyrna Beach  
Mike Bruegger, Pegasus Engineering  
Johan Rodriguez, Pegasus Engineering



## CENTRAL BEACH PHASE III FLOOD MITIGATION IMPROVEMENTS New Smyrna Beach, Florida

### ENGINEER'S ESTIMATE OF PROBABLE CONSTRUCTION COSTS 100% Design Progress

Unit Abbreviations

AL = Allowance                      LF = Linear Feet  
AC = Acre                              LS = Lump Sum  
CY = Cubic Yards                      SY = Square Yard  
EA = Each                                TN = Ton  
AS = Assembly

Bid Form Pay Item No.	FDOT/Non-Std. Pay Item No.	Item Description	Estimated Quantity	Unit	Unit Price	Extended Amount
1	101-1	Mobilization/Demobilization (Not To Exceed 5% of Items 2-24, All Inclusive)	1	LS	5%	\$311,422.69
2	102-1	Maintenance of Traffic	1	LS		\$159,300.00
3	110-1-1	Clearing and Grubbing	1	LS	\$177,300.00	\$177,300.00
4A	160-4a	Type B Stabilization (6")(LBR 40)	3,676	SY	\$5.85	\$21,504.60
4B	160-4b	Type B Stabilization (12")(LBR 40)	21,008	SY	\$12.00	\$252,072.00
5A	210-2a	Limerock (6")(LBR 100)	2,176	SY	\$16.50	\$35,904.00
5B	210-2b	Limerock (8")(LBR 100)	20,851	SY	\$20.00	\$417,020.00
6A	334-1-13a	Superpave Asphaltic Concrete, Traffic C (S-III or SP-9.5)(3/4")	2,583	TN	\$83.00	\$212,727.00
6B	334-1-13b	Superpave Asphaltic Concrete, Traffic C (S-III or SP-9.5)(1 1/2")	240	TN	\$83.00	\$19,920.00
7A	400-1-2	Concrete Class I, Endwalls	12	CY	\$968.00	\$11,816.00
7B	400-4-2	Concrete Class IV, Endwalls	20	CY	\$1,350.00	\$27,000.00
8A	425-1541	Inlets, Ditch Bottom, Type D, <10'	109	EA	\$2,534.00	\$276,206.00
8B	425-1543	Inlets, Ditch Bottom, Type D, J Bottom, <10'	3	EA	\$5,357.00	\$16,071.00
8C	425-1711	Inlets, Gutter, Type V, <10'	4	EA	\$2,895.00	\$11,580.00
8D	425-2-41	Manholes, P-7, <10'	18	EA	\$3,053.00	\$54,954.00
8E	425-3-61	Junction Boxes, J-7, <10'	40	EA	\$12,123.00	\$484,920.00
8F	425-11	Drainage Structure Modify	2	EA	\$1,490.00	\$2,980.00
9A	430-175-115	Pipe Culvert, Optional Material, Round, 15" S/CD (RCP)(Class III)	2,098	LF	\$30.00	\$62,940.00
9B	430-175-118	Pipe Culvert, Optional Material, Round, 18" S/CD (RCP)(Class III)	4,843	LF	\$43.00	\$208,249.00
9C	430-175-124	Pipe Culvert, Optional Material, Round, 24" S/CD (RCP)(Class III)	1,971	LF	\$56.00	\$110,376.00
9D	430-175-215a	Pipe Culvert, Optional Material, Other Shape - Ellip/Arch, 15" S/CD (ERCP)(Class HE-IV)	51	LF	\$80.00	\$4,080.00
9E	430-175-224a	Pipe Culvert, Optional Material, Other Shape - Ellip/Arch, 24" S/CD (ERCP)(Class HE-IV)	11	LF	\$95.00	\$1,045.00
9E	430-175-224b	Pipe Culvert, Optional Material, Other Shape - Ellip/Arch, 24" S/CD (ERCP)(Class HE-IV)(French Drain)	3,167	LF	\$119.90	\$379,723.30
9F	430-175-230a	Pipe Culvert, Optional Material, Other Shape - Ellip/Arch, 30" S/CD (ERCP)(Class HE-IV)	5,047	LF	\$138.90	\$701,028.30
9G	430-175-230b	Pipe Culvert, Optional Material, Other Shape - Ellip/Arch, 30" S/CD (ERCP)(Class HE-IV)(French Drain)	2,081	LF	\$128.15	\$266,117.15
9H	430-175-236b	Pipe Culvert, Optional Material, Other Shape - Ellip/Arch, 36" S/CD (ERCP)(Class HE-IV)(French Drain)	576	LF	\$161.30	\$92,908.80
9I	430-175-242b	Pipe Culvert, Optional Material, Other Shape - Ellip/Arch, 42" S/CD (ERCP)(Class HE-IV)(French Drain)	850	LF	\$180.00	\$151,200.00
9J	430-175-248a	Pipe Culvert, Optional Material, Other Shape - Ellip/Arch, 48" S/CD (ERCP)(Class HE-IV)	1,894	LF	\$261.81	\$495,866.14
9K	430-175-254a	Pipe Culvert, Optional Material, Other Shape - Ellip/Arch, 54" S/CD (ERCP)(Class HE-IV)	1,100	LF	\$336.90	\$370,590.00
10A	520-1-8a	Concrete Curb and Gutter, Special (Miami)	12	LF	\$31.00	\$372.00
10B	520-1-8b	Concrete Curb and Gutter, Special (12" Wide Ribbon Curb)	1,530	LF	\$18.00	\$27,540.00
10C	520-1-8c	Concrete Curb and Gutter, Special (24" Wide Ribbon Curb)	18	LF	\$36.00	\$648.00
11A	522-1	Concrete Sidewalk, 4" Thick	10	SY	\$43.75	\$437.50
11B	522-2	Concrete Sidewalk, 6" Thick	2,136	SY	\$59.75	\$127,626.00
12	570-1-2	Performance Turf, Sod	30,000	SY	\$2.75	\$82,500.00
13A	711-11-125	Thermoplastic, Standard, White, Solid, 24"	600	LF	\$3.68	\$2,208.00
13B	711-11-211	Thermoplastic, Standard, Yellow, Solid, 6"	2,000	LF	\$1.00	\$2,000.00
14	2000	Survey and Layout	1	LS	\$55,080.00	\$55,080.00
15	2001	Prevention, Control and Abatement of Erosion and Water Pollution	1	LS	\$27,000.00	\$27,000.00
16	2002	Flow Diversion	1	LS	\$21,780.00	\$21,780.00
17	2003	Concrete Class IV, Box Culvert (5' Span x 3' Rise)	650	LF	\$650.00	\$552,500.00
18A	2004a	Waterline Adjustment, 6" (DIP)(Includes all Pipe and Appurtenances)	15	EA	\$1,500.00	\$22,500.00
18B	2004b	Waterline Adjustment, 8" (DIP)(Includes all Pipe and Appurtenances)	3	EA	\$2,000.00	\$6,000.00
18C	2004c	Waterline Adjustment, 12" (DIP)(Includes all Pipe and Appurtenances)	18	EA	\$2,500.00	\$45,000.00
18D	2004d	Service Connection Replacement, 1" (Polyethylene)(Includes all Pipe and Appurtenances)	70	EA	\$300.00	\$21,000.00
19A	2005a	Single Sewer Lateral Replacement, 4" (PVC)(Includes all Pipe and Appurtenances)	70	EA	\$650.00	\$45,500.00
19B	2005b	Double Sewer Lateral Replacement, 4"/6" (PVC)(Includes all Pipe and Appurtenances)	20	EA	\$700.00	\$14,000.00
20A	2006a	Stormwater Pump and Control Panel	1	LS	\$15,000.00	\$15,000.00
20B	2006b	Stormwater Vault	2	EA	\$25,000.00	\$50,000.00
20C	2006c	Stormwater Discharge Connection Vault	2	EA	\$5,000.00	\$10,000.00
20D	2006d	12" PVC Stormwater Force Main	830	LF	\$25.00	\$20,750.00
21	2007	Aluminum Sluice Gate (24" Opening)	1	EA	\$8,000.00	\$8,000.00
22	2008	CCTV Video Inspection/Reporting	1	LS	\$35,250.00	\$35,250.00
23	2009	Phase I Archaeological Survey	1	LS	\$5,000.00	\$5,000.00
24	2010	Record Drawings	1	LS	\$41,760.00	\$41,760.00
<b>TOTAL CONSTRUCTION COSTS</b>						<b>\$8,538,876.48</b>

**Notes:**

1. Estimate assumes 540 calendar day construction schedule
2. Any required permits shall be included under Pay Item No. 101-1, Mobilization/Demobilization. All material testing (i.e., proctors, in-place density, backfill compaction, etc.) shall be included under Pay Item No. 101-1, Mobilization/Demobilization. Pre-construction video taping and digital photography shall be included under Pay Item No. 101-1, Mobilization/Demobilization.
3. Pay Item Nos. 430-175-224b, 430-175-230b, 430-175-236b and 430-175-242b include pipe plugs, pipe fittings, coarse aggregate and filter fabric for a complete exfiltration trench system
4. The Contractor is to verify all quantities prior to BID.



**Brangaccio, Pam**

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**From:** City of NSB News  
**Sent:** Monday, December 23, 2013 11:03 AM  
**Subject:** News release: Federal flood zone changes affect some NSB properties

**December 23, 2013**

**News media contact:**

Kyle Fegley, city engineer

386.424.2168

NEWS FOR IMMEDIATE RELEASE

**Federal flood zone changes affect some NSB properties**

Many New Smyrna Beach properties no longer will be required to carry flood insurance as a result of the Biggert-Waters Flood Insurance Reform Act enacted by the federal government July, 2012. That's because the Federal Emergency Management Agency (FEMA) has revised base flood elevation maps. While that's a bit of good news, some property owners will be required to carry flood insurance for the first time.

"There have been rumors that the reform act may be delayed before new Flood Insurance Rate Maps (FIRM) go into effect February 19," said New Smyrna Beach city engineer Kyle Fegley. "So far the Senate nor Congress have passed a moratorium. We want to make sure our residents are aware of changes that could be coming their way in the new year."

If new FIRM maps go into effect as part of the federal legislation, hundreds of homes in Venetian Bay, Promenade Parke and other areas of the city will be removed from special flood hazard areas (SFHA), Fegley said. Property owners no longer will be required to purchase flood insurance if their mortgage is tied to a federally funded loan.

However, a few small sectors of the city – currently not in a floodplain – will be required to carry flood insurance based on the new maps, Fegley added. For example, Live Oak and Magnolia streets from 2<sup>nd</sup> Street to Canal Street currently are not in a flood hazard area but will be when the new maps go into effect.

"Properties affected will be grandfathered from previously established elevations until the property is sold or the current property owner lets their insurance policy lapse," Fegley said.

“Properties added to the flood hazard maps will be eligible for the preferred risk policy rate as part of the grandfathering process.

Properties located in SFHA zones A/AE and VE will be affected by the Act, Fegley said. The City is encouraging home and business owners to contact their insurance agent to determine if their policy will be affected.

In July 2012, the U.S. Congress passed the Biggert-Waters Flood Insurance Reform Act to change the way the National Flood Insurance Program (NFIP) is run. Key legislative provisions require the NFIP to raise rates to reflect true flood risk, make the program more financially stable, and change how FIRM updates impact policyholders, according to a FEMA website.

For more information on the Act, please log on to <http://www.fema.gov/flood-insurance-reform-act-2012>.

-30-

## Brangaccio, Pam

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**From:** Resheidat, Khalid  
**Sent:** Thursday, January 02, 2014 11:01 AM  
**To:** 'Laura Laser'  
**Cc:** Brangaccio, Pam  
**Subject:** RE: Flagler Seawall Extension (Columbus Ave Beach Ramp Closure)

Thank you and I will.

Khalid

-----Original Message-----

From: Laura Laser [mailto:llaser@volusia.org]  
Sent: Thursday, January 02, 2014 10:54 AM  
To: Resheidat, Khalid  
Subject: Flagler Seawall Extension (Columbus Ave Beach Ramp Closure)

Hello Khalid -

I spoke with Jerry Brinton on this. The County is hiring Quentin Hampton for the bidding, permitting, CA services. Randy Coslow/ QLH will be attending the Pre-Bid Conference on Jan 16th, 9am, City Commission Chambers.

Jerry advised that the City of New Smyrna Beach Commission, on page 12 of the Nov 8, 2011 minutes, approved payment of \$120,000 to Volusia County for the design and construction of the seawall. And that the next step is to get a City/ County Funding Agreement ready for County Council. The agreement would need to be approved by both City and County prior to construction contract award.

We're on a tight schedule to beat turtle nesting season. The County would need a City signed funding agreement ready for County Council by January 30, 2014. We're preparing the agreement right now.

Would you speak with Ms. Brancaccio?

Please advise.

Thanks.

Laura E. Laser, AIA  
Senior Architect  
County of Volusia - Engineering & Construction  
123 West Indiana Ave, Room 402  
Deland, Florida 32720  
llaser@volusia.org  
Office: (386) 736-5967, ext 12323  
Mobile: (386) 804-9117

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT  
Post Office Box 1429  
Palatka, Florida 32178-1429

PERMIT NO. IND-127-135430-1

DATE ISSUED: January 6, 2014

PROJECT NAME: Colony Park Road extension

**A PERMIT AUTHORIZING:**

Construction of a Stormwater Management System to extend Colony Park Road (a two-lane public road) 0.5 mile north according to the plans received by the District on November 18, 2013.

**LOCATION:**

SECTION(S): 14, 23, 43

TOWNSHIP(S): 17S RANGE(S): 33E

Volusia County

**ISSUED TO:**

City of New Smyrna Beach  
210 Sams Ave  
New Smyrna Beach, FL 32168

Permittee agrees to hold and save the St. Johns River Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to permittee any property rights nor any rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes.

**PERMIT IS CONDITIONED UPON:**

See conditions on attached "Exhibit A", dated January 6, 2014

**AUTHORIZED BY:** St. Johns River Water Management District  
Division of Regulatory Engineering and Environmental Services

By: 

---

David Dewey  
Service Center Director

Revised January 2, 2014  
December 11, 2013

Mr. Khalid Resheidat, P.E.  
Asst. City Manager/Public Works Director  
City of New Smyrna Beach  
210 Sams Ave.  
New Smyrna Beach, FL 32168

**Re: PAIGE AVENUE ROADWAY EXTENSION – FEASIBILITY STUDY  
Professional Engineering Services Proposal**

Dear Mr. Resheidat:

I am pleased to offer the Professional Engineering Services associated with the City of New Smyrna Beach Paige Avenue Roadway Extension – Feasibility Study.

Project Description: Conduct a feasibility study to determine the tasks, time (schedule) and potential cost associated with extending Paige Avenue approximately 9,035'. Following is a detailed Scope of Work:

**The Scope of Work is as follows:**

The City has identified an east-west route to relieve SR 44 congestion involving the extension of Paige Avenue from where the current paved section labeled as Vic's Way terminates westward to intersect with South Glencoe Road. The roadway is expected to be classified as a local and/or collector to be developed as two-lanes with limited turn lanes/queing at required intersections ( $\geq 25$  left turns/hr) with no signalization. The scope includes preparing a feasibility study including estimated cost for the roadway improvements.

**PART A – SUBCONSULTANT SERVICES**

1. Coordinate and Pay Surveyor Subconsultant
2. Coordinate and Pay Land Use Attorney Subconsultant
3. Coordinate and Pay Archaeological Subconsultant
4. Coordinate and Pay Geotechnical Engineer Subconsultant
5. Coordinate and Pay Traffic Engineer Subconsultant
6. Coordinate and Pay Biologist Subconsultant
7. Coordinate and Pay Structural Engineer Subconsultant

**PART B – FEASIBILITY STUDY**

Included in the Feasibility Study are the following elements:

1. Coordination meetings with the City, County, Utilities Commission, stakeholders and subconsultants.
2. Review of right-of-way maps, plats, recorded clerk of court deeds to determine ownership and if any sections have been vacated and/or changed ownership.
3. Determine right-of-way width and verify if any restrictions have been recorded with regard to the development within such.
4. Provide a copy of the right-of-way maps and/or define the surveying cost to do so.
5. Determine whether or not additional property acquisition is needed for construction.

6. Analyze development of the roadway for various design & permitting challenges including the following items:
  - a) Anticipated wetland impacts both direct & secondary as well as possible surface waters.
  - b) Coordinate with utility providers, AT&T, BrightHouse, and the Utilities Commission to determine possible issues, relocates, utility adjustments, etc. (Note: UC has a 20" potable water main coursing most of the roadway.)
  - c) Provide an estimate for the necessary survey to complete the design & permitting including topographic, wetland delineation & boundary.
  - d) Evaluate whether or not endangered or threatened wildlife inhabit the right-of-way (or may impact their habitat), and potential impact to development.
  - e) Review and provide evaluation whether or not stormwater management can be treated and stored within the right-of-way limits or if additional property is needed for retention/detention ponds.
  - f) Provide an estimate of archaeological cost (phase I & II cultural resource study).
  - g) Perform preliminary geotechnical evaluation to determine if existing soils are suitable and/or extent of demucking or removal of debris/organic material.
  - h) Review the creek crossing to determine the needed bridge span to minimize impact to the wetlands and continue the hydraulic capacity/cross-section of the waterway (SHWL conditions).
  - i) Coordinate with Traffic Engineer to determine extent and cost of intersection, pedestrian crossing, signage and striping.
  - j) Coordinate with Utilities Commission to determine lighting requirements and estimated costs for electrical improvements.
  - k) Coordinate with Land Use Attorney.
7. Provide a 60%, 90% and 100% engineer's estimate for the overall construction cost including export/import of fill material, wetland mitigation, ADA accessibility, intersection, striping and signage improvements, bridge cost, right-of-way and stormwater management areas acquisition (if needed), MOT, pavement (12" sub-base, 8" base, 2" asphalt course), curbing, striping/signage, drainage infrastructure/retention ponds or swales, utility improvements (electrical distribution and lighting), tree removal/site clearing, 5' concrete sidewalk and site restoration. Also included will be estimates of design and permitting fees.
8. Perform Site Visit and Data Acquisition.
9. Prepare 60% Feasibility Study Draft
  - a) Prepare 60% Preliminary Plan and 60% Draft Feasibility Study
  - b) Attend meeting with City Staff
  - c) Attend St. Johns River Water Management District meeting
  - d) Attend Volusia County meetings
  - e) Review 60% Feasibility Study with City
10. Prepare 90% Feasibility Study Draft
  - a) Prepare 90% Preliminary Plan and 90% Draft Feasibility Study
  - b) Attend meeting with City Staff
  - c) Attend St. Johns River Water Management District meeting
  - d) Review 90% Feasibility Study with City
11. Prepare 100% Feasibility Study
  - a) Prepare 100% Plan and Final Feasibility Study
  - b) Attend meeting with City Staff
  - c) Attend Volusia County meetings
  - d) Review 100% Feasibility Study with City

**PART C – MISCELLANEOUS**

1. Expenses (including Reproducibles, Mileage, Postage, etc.)

**Not included in the above Scope of Work are as follows:**

1. Permit application fees (to be borne by the Owner).
2. Design Survey (as required by local agency)
3. Preparation of Legal Descriptions and Easement Documents (to be prepared by a professional land surveyor)
4. Final Design and Permitting
5. Geotechnical Soil Testing required for construction (to be performed by a Geotechnical Engineer).
6. Onsite Construction Supervision.

I anticipate the Professional Engineering fee associated with the above Scope of Work not to exceed the following:

<b>PART A – SUBCONSULTANT SERVICES (include 10% coordination)</b> .....	<b>\$ 39,121.50</b>
<b>PART B – FEASIBILITY STUDY (Tasks 1-11)</b> .....	<b>\$ 41,105.00</b>
<b>PART C – MISCELLANEOUS</b> .....	<b>\$ 4,700.00</b>
<b>TOTAL</b> .....	<b>\$ 84,926.50</b>

Please note that Miscellaneous Expenses, such as reproducibles, mileage, postage, etc., are estimated and included in the above Scope of Work. Billing will be monthly, based on the **Hourly Rate Schedule** included with this proposal.

After reviewing this proposal, if it meets with your approval, please execute both copies of the **Professional Services Agreement** and return to me as the Notice to Proceed. One copy will be returned for your files. Please feel free to call with any questions you may have concerning this proposal or the project in general.

Thank you for considering Parker Mynchenberg & Associates, Inc. for your Professional Engineering needs.

Yours truly,



Parker Mynchenberg P.E., R.L.A.

PM/cm

Cc: Kyle Fegley, P.E.

January 6, 2014

TO: The Cities of Deland, Daytona Beach, Edgewater, Holly Hill, New Smyrna Beach and Port Orange, County of Volusia and Votran:

This correspondence provides you with good and proper notice that we shall be soon investigating whether or not the bus benches and bus stops within your jurisdiction, control and responsibility are ADA compliant and thereby accessible to people with disabilities.

On this same date we notified the City of Deltona that its bus benches and bus stops, maintained and/or placed by Waverly Media, LLC (WAVERLY) and/or others are not ADA compliant. (See the attached letter to Deltona City Manager Dave Dennys.)

Not only is it your legal obligation to ensure that the bus benches and bus stops are ADA compliant – it is also your moral obligation to make sure that public transportation (including bus stops) are accessible to people with disabilities.

The reason we are writing you is that we suspect that you have bus benches and bus stops within your jurisdiction, control and responsibility that have been placed and/or are being maintained by WAVERLY and/or others, just as does Deltona. You should be proactive in making sure that those bus benches and bus stops within your jurisdiction are ADA compliant so as to not put your agency in jeopardy of our filing complaints with the United States Department of Justice or aggrieved persons filing lawsuits against your agency after the word gets out that such bus stops must be ADA compliant.

Hopefully you are already compliant; however, if not, I suggest you immediately remediate your noncompliance as we do not intend to give any further notice of your obligation. As such, if you choose to ignore this friendly warning then you will do so at your own peril of facing appropriate legal actions.

Thank you for your attention to this matter. It is our hope that you will join us in making sure that people with disabilities are treated with fairness in their work, home, school and community. Please feel free to contact me if we can be of any assistance to you in this regard.

Sincerely,



JAMISON JESSUP  
Disability Advocate

This correspondence has been distributed to:

1. Michael Pleus, City Manager, City of Deland, Email: [pleusm@deland.org](mailto:pleusm@deland.org)
2. James Chisolm, City Manager, City of Daytona Beach, Email: [chisholmj@codb.us](mailto:chisholmj@codb.us)
3. James "Jim" McCroskey, City Manager, City of Holly Hill, Email: [jmccroskey@hollyhillfl.org](mailto:jmccroskey@hollyhillfl.org)
4. Pam Brangaccio, City Manager, City of New Smyrna Beach, Email: [pbrangaccio@cityofnsb.com](mailto:pbrangaccio@cityofnsb.com)
5. Bonnie Wenzel, City Manager, City of Edgewater, Email: [mayor@cityofedgewater.org](mailto:mayor@cityofedgewater.org)
6. Greg Kisela, City Manager, City of Port Orange, Email: [gkisela@port-orange.org](mailto:gkisela@port-orange.org)
7. Jim Dinneen, County Manager, County of Volusia, Email: [jdinneen@volusia.org](mailto:jdinneen@volusia.org)
8. Steve Sherrer, General Manager, Votran, Email: [ssherrer@volusia.org](mailto:ssherrer@volusia.org)
9. Other interested persons and entities.

January 3, 2014

Mr. Dave Denny, City Manager  
City of Deltona  
2345 Providence Boulevard  
Deltona, FL 32725  
Email: ddenny@deltonafl.gov

Dear Mr. Denny:

This correspondence provides the City of Deltona (CITY) with good and proper notice that bus benches and bus stops under your jurisdiction, control and responsibility are not compliant with the Americans with Disabilities Act and other laws specifically designed to make public transportation, including the bus stops, accessible to people with disabilities. Furthermore, most of the bus benches and bus stops are a hazard to people with disabilities.

We request that you immediately enter into a settlement agreement with us providing, at a minimum, the settlement terms contained herein

Settlement Term #1: The CITY shall exercise its right and duty to immediately **remove** the bus benches maintained and/or placed by Waverly Media, LLC (WAVERLY) and **replace** each of them with a city-owned and maintained bus bench.

You are aware that the CITY entered into an Agreement (AGREEMENT) (Exhibit "A") with Maverick Bench Media Company, Inc. (MAVERICK). Notwithstanding the fact that WAVERLY is not a valid party to the Agreement<sup>1</sup> and does not have the right to place and maintain bus benches in the CITY's right of way<sup>2 3</sup> and that MAVERICK was administratively dissolved<sup>4</sup>

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<sup>1</sup> Section 15 of the AGREEMENT states: "Neither this Agreement, nor any portion thereof unless otherwise authorized herein, shall be assigned without formal consent of the City." To our knowledge, the City has never authorized any such formal consent.

<sup>2</sup> Section 337.408, Florida Statutes states, in pertinent part: "Benches \*\*\* including advertising displayed on benches \*\*\* may be installed within the right-of-way limits of any municipal, county or state road \*\*\* provided that written authorization has been given to a qualified private supplier of such service by the municipal government within whose incorporated limits such benches \*\*\* are installed[.]"

<sup>3</sup> Section 102-105, Deltona Code of Ordinances, states in pertinent part: "Accordingly, nothing contained in this chapter shall be construed to prohibit the placement or construction of bus benches \*\*\* in connection with public transportation and from painting or attachment of signs thereto; provided, however, that such bus benches \*\*\* shall be placed or constructed under and pursuant to the terms of a licensing agreement or other contract executed on behalf of the city wherein conditions concerning the placement, design, construction, number and signage connected with such bus benches \*\*\* shall be set forth."

<sup>4</sup> See Exhibit "B," a screen shot of the Florida Division of Corporation's website showing MAVERICK's dissolution. Section 607.1405, Fla.Stat. prohibits such dissolved corporations, including MAVERICK, from carrying "on any business except that appropriate to wind up and liquidate its business affairs, including: (a) Collecting its assets \*\*\* and (e) Doing every other act necessary to wind up and liquidate its business and affairs." As such, MAVERICK

on September 23, 2013, the bus benches (and bus stops for that matter) are not ADA compliant as explained later herein. As such, the CITY may<sup>5</sup> remove the bus benches immediately in the same manner as it removes any other illegal<sup>6</sup> sign it finds in the CITY's right of way. Furthermore, if you believe that WAVERLY is a party to the AGREEMENT, the AGREEMENT provides that bus benches that constitute a hazard to persons may be removed by the CITY within two working days.<sup>7</sup> **A bus bench that is not ADA compliant constitutes such a hazard to people with disabilities.**

We inspected around 29% (47 of 163<sup>8</sup>) of the bus stops and benches located in the boundaries of Deltona using a partial list of criteria of ADA compliance that was confirmed to us by Dave Perkins, ADA Coordinator, with the Florida Department of Transportation. You will find a copy of an email conversation we had with Mr. Perkins attached as Exhibit "C."

Mr. Perkins indicated that in order to be ADA compliant a bus bench must have a minimum seat height of 17 inches. **None of the 47 bus benches that we inspected met that minimum height requirement.** Some of the benches we inspected had a seat height of half of the required minimum. People with disabilities that substantially limit their ability to sit, squat and/or stand are in danger when using these benches, if they are able to use them at all.

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is prohibited from maintaining the bus benches, selling advertisements, applying for permits, and executing other duties and responsibilities as required in the AGREEMENT, all of which allowed or required by the AGREEMENT.

<sup>5</sup> We believe the CITY has a duty to remove the bus benches because they are a hazard to persons with disabilities and are not ADA compliant.

<sup>6</sup> Section 102.3, Deltona Code of Ordinances, states in pertinent part: "It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained, any sign described as follows: \*\*\* Signs within public rights-of-way without a proper use permit from the authorizing agency." Again, WAVERLY is not a party to the AGREEMENT and upon our inquiry does not have proper use permits from the CITY.

Section 102.11(b), Deltona Code of Ordinances, states "No signs shall at any time be placed in the city right-of-way, except by authorized governmental agencies, approved by the city commission or city manager as permitted elsewhere in this chapter or otherwise allowed by this chapter."

Section 102-30, Deltona Code of Ordinances, states: "It shall be unlawful for any person to erect, construct, alter, or relocate any sign within the city without having first obtained a permit therefor, except as specifically provided for in this chapter." Section 2 of the AGREEMENT, states: "Permission must be obtained from the City prior to the installation of any bus benches to be located on public property and the contractor shall obtain all necessary permits at its sole cost and expense. Bus bench installations must adhere to all federal[,] state and local laws, ordinances and regulations [including the Americans with Disabilities Act, Section 337.408, Fla.Stat., and Section 102, Deltona Code of Ordinances]." Upon inquiry we have determined that there no permits were ever obtained to install the bus benches and none of the bus benches we inspected were ADA compliant.

<sup>7</sup> Section 4, AGREEMENT states, in pertinent part: "In the event the City Manager or designee determines that a [bus] bench constitutes a hazard to persons or property or disrupts the public right of way, the Contractor shall remove the bench no later than the next work day from receipt of such notice. In the event, the Contractor fails to repair, replace, or remove the same within the above-specified period, the City shall have the right to move or remove the said bus bench at the expense of the Contractor."

<sup>8</sup> The AGREEMENT allows for 120 bus benches; however, a review of WAVERLY's website indicated on January 1, 2014 that there are 168; however, viewing the map it provided it is obvious that at about a handful of those are possibly outside of Deltona's boundaries. (See Exhibit "D" and [www.waverlybenchads.com](http://www.waverlybenchads.com).)

Mr. Perkins indicated that “if there is no 5’ x 8’ boarding and alighting area (bus pad)” there would need to be 48 inch concrete surface (i.e. sidewalk) connecting the bus bench to the boarding location. **Each of the 47 bus benches that we inspected requires users to walk over uneven terrain (e.g. grass, weeds, sugar sand, etc...) to access the bench to and from the bus stop and/or to and from a sidewalk.** People with disabilities that substantially limit their ability to walk and balance themselves are in danger when using these benches if they are able to use them at all. Further, there is no adequate wheelchair access to the bus benches.

Settlement Term #2: The CITY shall reconstruct each of the bus stops located within the CITY to be fully ADA compliant including making sure that the bus benches have a seat height of no less than 17 inches and that the bus benches has a concrete bus pad of no less than 5’ x 8’ with a concrete sidewalk access to and from the bus pad.

It is not sufficient to simply remove the bus benches. The CITY allowed the bus stops to be improved by allowing the bus benches to be installed. As such, the CITY needs to improve the bus stops and make them fully ADA compliant by constructing the bus pads and sidewalks.

Settlement Term #3: The CITY shall place advertisements, with graphic designs approved by us, directing the public to a website of our choice that provides information to the public about the rights of people with disabilities as provided by various federal, state and local laws (e.g. Americans with Disabilities Act, Individuals with Disability Education Act, Section 504 of the Rehabilitation Act of 1973, Federal Fair Housing Law, Florida’s Fair Housing Law and Florida’s Civil Rights Act). These advertisements shall be placed and maintained, at the CITY’s expense, for a period of at least twelve (12) months.

The CITY failed its duty to ensure that the bus stops and bus benches were ADA compliant for more than twelve (12) years. The AGREEMENT was signed on July 1, 2001. As such, we are requesting the CITY maintain these advertisements one month for each year that the CITY was not in compliance.

We do not believe that our requests are unreasonable; however, if you fail and refuse to enter into such a settlement agreement, we shall file a formal complaint with the United States Department of Justice. We have also identified a number of aggrieved persons with disabilities and will refer them to an attorney for the purpose seeking counsel regarding filing appropriate federal civil rights lawsuits.

Mr. Denny, this is an opportunity for the CITY to demonstrate its remorse for discriminating against people with disabilities by failing to ensure that the bus benches and bus stops were ADA compliant for more than twelve (12) years.

I am available to meet with you and your staff to discuss the matters contained herein and to negotiate the final terms of the proposed settlement agreement. We are also willing to enter into mediation.

Sincerely,



JAMISON JESSUP  
Executive Director



557 Noremac Avenue  
Deltona, FL 32738  
(386) 628-0295

## Brangaccio, Pam

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**From:** Janet Zimmerman <jzimmerman@aicw.org>  
**Sent:** Friday, December 20, 2013 12:27 PM  
**To:** Brangaccio, Pam; Barringer, Adam; Henrikson, Gail  
**Cc:** 'Susanne McCabe'  
**Subject:** RE: New Smyrna Beach Riverfront Master Plan

Pam,

The District's rule regarding Maritime Master Plans is copied below to assist in your decision. If I can answer any questions please let me know.

Sincerely,

Janet Zimmerman, Assistant Executive Director  
Florida Inland Navigation District  
1314 Marcinski Rd  
Jupiter, Florida 33477  
561.627.3386

66B-2.008(5) The District may assist eligible local governments with efforts to prepare and implement a comprehensive maritime management plan. The plan shall be utilized by the eligible government to promote and maximize the public benefit and enjoyment of eligible waterways, while identifying and prioritizing the waterway access needs of the community. The plan should not duplicate any existing or ongoing efforts for the same waterway or water shed, nor shall the District participate in any effort that does not address the basic maritime needs of the community.

(a) Existing plans may be updated at reasonable intervals or amended to include waterway areas previously not included in the original effort. Public, government, environmental, industry and other pertinent interest groups shall be solicited and included for input in the planning process.

(b) The plan shall be utilized as a tool to provide a minimum 5-year planning analysis and forecast for the maritime needs of the community, and shall include, at minimum, the following:

1. Public boat ramp and ramp parking inventory and analysis.
2. Public mooring and docking facility analysis, including day docks and transient slips.
3. Commercial and working waterfront identification and needs analysis.
4. The identification, location, condition and analysis of existing and potential navigation channels.
5. An inventory and assessment of accessible public shorelines.
6. Public Waterway transportation needs.
7. Environmental conditions that affect boat facility siting, a current resource inventory survey, and restoration opportunities.
8. Economic conditions affecting the boating community and boating facilities.
9. Acknowledgment and coordination with existing data and information, including an emphasis on the Intracoastal Waterway.

(c) Projects requested for assistance program funding shall be consistent with the applicant's maritime management plan. The applicant should utilize the plan to assist in prioritizing waterway improvement projects.

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**From:** Brangaccio, Pam [mailto:pbrangaccio@cityofnsb.com]  
**Sent:** Wednesday, December 18, 2013 5:14 PM  
**To:** 'Susanne McCabe'; Henrikson, Gail; Janet Zimmerman  
**Cc:** Barringer, Adam  
**Subject:** RE: New Smyrna Beach Riverfront Master Plan

Susanne, we will work with FIND staff as well, and let you know after Jan 14<sup>th</sup> City Commission meeting, if City will be submitting a formal grant application for 2014 for Riverwalk Master Plan.

Thank you for your assistance on 2013 grants! Happy Holidays. Pam Brangaccio, City Manager

**From:** Susanne McCabe [<mailto:sdm@bonusmccabe.com>]  
**Sent:** Monday, December 16, 2013 4:12 PM  
**To:** Henrikson, Gail; [jzimmerman@aicw.org](mailto:jzimmerman@aicw.org)  
**Cc:** Barringer, Adam; Brangaccio, Pam  
**Subject:** RE: New Smyrna Beach Riverfront Master Plan

Gail: It was a pleasure to meet you and your colleagues from the City of NSB at our FIND Outreach Thursday evening at Norwoods. I see Janet has responded to your email with some information that should assist you. Please don't hesitate to call or email me if you need further assistance. Best regards.

Susanne

Susanne D. McCabe, Esquire  
Bonus McCabe Law Firm  
Offices in Orlando and Port Orange  
Use Orlando Address for all Mail  
1115 E. Concord Street  
Orlando, Florida 32803  
Phone No.: Orlando (407) 835-8811  
Phone No.: Port Orange (386) 761-3008  
Facsimile No.: (407) 835-8868  
Email to: [sdm@bonusmccabe.com](mailto:sdm@bonusmccabe.com)

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**From:** Henrikson, Gail [<mailto:ghenrikson@cityofnsb.com>]

**Sent:** Monday, December 16, 2013 3:33 PM

**To:** Susanne McCabe; [jzimmerman@aicw.org](mailto:jzimmerman@aicw.org)

**Cc:** Barringer, Adam; Brangaccio, Pam

**Subject:** New Smyrna Beach Riverfront Master Plan

Susanne and Janet:

It was a pleasure to meet both of you at Thursday's FIND event. As we discussed, New Smyrna Beach is interested in preparing a master plan for its riverfront property, from Riverside Park to the AOB site and boat ramps. As part of that preparation, the City would be interested in pursuing any grant funding that FIND might have available to assist in this planning process. As I understand, the grant cycle will open in early 2014. Any information you can provide would be greatly appreciated.

Again, it was very nice to meet both of you, and I look forward to working with you on this project.

Gail Henrikson, AICP

Planning Manager

City of New Smyrna Beach

210 Sams Avenue

New Smyrna Beach, FL 32168

386.424-2134

386-424-2148 (fax)

**DRAFT**

**GROUND LEASE**

**THIS GROUND LEASE ("Lease")** is made by and between the County of Volusia, a political subdivision of the State of Florida, ("Landlord,) and the City of New Smyrna Beach, Florida, a municipal corporation under the laws of the State of Florida ("Tenant"). Definitions in this Lease are set forth in boldface.

**BASIC LEASE PROVISIONS**

1. **Effective Date:** \_\_\_\_\_, 2013 (see **Section 9.1** of the Basic Lease Provisions).
2. **Premises' tax identification number / assessor's (full) parcel number:** 16-17-34-02-11-0010.
3. **Restrictions:** Landlord and Tenant are subject to the rules and restrictions which have been recorded against the Premises as of the date of this Lease, the terms of the related ECHO Agreement and contractual restrictions as expressed in the Lease. From and after the Effective Date, Landlord shall not voluntarily allow the Restrictions to be amended in any manner which adversely affects this Lease or Tenant's rights hereunder without Tenant's written consent. Tenant accepts the Premises in "As Is," condition.
5. **Tenant Improvements:** A restroom facility, parking lot, landscaping, shade structures and related on-site improvements with underground on-site Utilities constructed by Tenant on the Premises (collectively, the "**Tenant Improvements**") following the issuance of all Permits (as hereinafter defined).
6. **Initial Term:** Forty (40) Lease Years.
7. **Options:** Four (4) five (5) year options at the mutual election of both parties.
8. **Consideration:** In lieu of payment of rent, Tenant shall cause to be constructed the improvements shown in the attached site plan and shall solely and fully maintain the Premises as a public lot for off beach automobile parking.
9. **Important Dates:**
  - 9.1. **Effective Date:** The date upon which both Landlord and Tenant have signed this Lease and received the requisite approval of their respective governing council / commission. Neither party hereto shall be bound by any terms herein under any circumstances until both parties have signed the Lease and received the requisite approval. The Landlord shall be the last party to execute the Lease and shall fill in the Effective Date above, upon execution.
  - 9.2. **Delivery Date:** The date upon which Landlord delivers physical and vacant possession of the Premises to Tenant, which shall be the same as the Effective Date unless otherwise agreed in writing.

- 9.3. **Commencement Date:** Subject to **Section 21(i)** and delays not within Tenant's control, the date which is the earlier of (i) the date upon which Tenant opens the Premises for use by the public or (ii) three hundred sixty five (365) days from the Delivery Date.
- 9.4. **Contingency Period:** The period between the Delivery Date and one hundred eighty days (180) days thereafter, subject to extension or early expiration as set forth herein, during which Tenant obtains all final (without right of appeal) permits and approvals (including, but not limited to, governmental authorizations, ECHO Grant approval and funding, business licenses, building permits, re-zoning approvals or variances) necessary for Tenant's construction, use and Tenant's Permitted Use of the Premises, (collectively, the "**Permits**"), provided Tenant diligently pursues such Permits. Tenant shall have the right to terminate the Lease if, after using reasonable efforts, it does not obtain necessary Permits within the Contingency Period.
10. **Tenant's Permitted Use:** Tenant shall have the right to use the Premises only for a paved off-beach vehicle parking lot with vertical improvements limited to a restroom facility, boardwalk area, outdoor shower area, limited shade structures, lighting and signage all in substantial conformance with the Tenant's Site Plan attached as Exhibit B hereto. Tenant shall be entitled to charge a daily per vehicle fee to the public for the right to park at the Premises and Tenant shall be entitled to retain 100% of the revenue generated from said parking fees. Tenant shall open the Premises for public use on such days and hours as Tenant determines are appropriate and in keeping with the hours similar off beach parking areas operated by Tenant are open for public use. Subject to constructing Tenant Improvements, casualty, damage, destruction, condemnation, remodel, Force Majeure, and holidays, if Tenant ceases operations (keeping Premises open for public use) for one hundred eighty (180) consecutive days, Tenant shall be deemed to be in default, and Landlord may, at its option and upon written notice to Tenant, terminate the Lease and take possession of the Premises, unless otherwise agreed in writing by Landlord. Should Landlord exercise the aforesaid termination right, Landlord shall reimburse Tenant for its unamortized Tenant Improvement costs in an amount not to exceed the amount actually spent by Tenant's own (non ECHO grant) funds to construct the Tenant Improvements.
11. **Use Restrictions:** Tenant shall not engage in any use(s) other than described in Paragraph 10 above. The Landlord and Tenant agree that Landlord shall have the right to place a lifeguard "base tower" either on the Premises and/or on the beach in front of the Premises at a location to be determined in Landlord's sole discretion.
12. **ECHO Grant Conditions:** Landlord and Tenant acknowledge that Tenant is relying upon award and receipt of "ECHO Grant" funds as a contingency to executing and fulfilling the term of this Lease. The ECHO Grant program is administered by Volusia County (Landlord), however, any contradiction of terms of this Lease with the terms of the ECHO Grant is unintentional and the contradicting terms herein shall be deemed null and void to the extent necessary to allow Tenant to fully comply with the terms of the ECHO Grant. In the event Landlord or Tenant discover contradicting terms between this Lease and the ECHO Grant, the discovering party shall give notice in writing to the respective legal department of the other party no later than seven (7) days from the discovery of the conflicting terms. A copy of the ECHO Grant Agreement is attached as Exhibit C and incorporated herein.

**DRAFT**

**13. Exhibits:**

- Exhibit "A" – Legal Description of the Premises
- Exhibit "B" – Tenant's Site Plan
- Exhibit "C" - ECHO Grant Agreement

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GENERAL PROVISIONS

1. **LEASE.** Upon and subject to the terms of this Lease, Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord the Premises for and during the Term.
2. **DESCRIPTION OF PREMISES.** The subject property, described in **Exhibit "A"**, including (a) all rights, easements and appurtenances belonging or appertaining thereto, including, without limitation, cross-access easements and easements for Utilities throughout the property; (b) all right, title and interest of Landlord in and to any and all roads, streets, alleys and ways bounding such property; and (c) all seawalls / bulkheads and other improvements thereon (collectively, the "**Premises**"), is described in the Basic Lease Provisions by street address and more specifically described as attached hereto on **Exhibit "A"**, but subject to those encumbrances and exceptions including any Restrictions. Notwithstanding, anything to the contrary herein this Lease, Tenant may build its Tenant Improvements in accordance with **Exhibit "B"** which is hereby approved by Landlord. In the event that Tenant seeks to reduce the number of vehicle parking spaces shown in Exhibit B before or after construction for any reason other than placement of a lifeguard base tower by Landlord, Tenant must notify the Landlord in and obtain Landlord's written consent.
3. **TERM; OPTIONS.**
  - (a) **Initial Term.** The Initial Term of this Lease is set forth in the Basic Lease Provisions above. "**Lease Year**" shall mean each whole year during the Term, such that the first Lease Year shall commence on the Commencement Date and end on the last day of the calendar month in which the first anniversary of the day immediately preceding the Commencement Date occurs. Each succeeding Lease Year shall be each successive twelve (12) month period.
  - (b) **Options.** Landlord and Tenant shall have the mutual option of extending the Initial Term for the number of Options set forth above in the Basic Lease Provisions, commencing at midnight on the date upon which the Initial Term or any Option expires (collectively as extended, the "**Term**"). Landlord and Tenant may extend the Term for all (or fewer) of such Option periods and each such Option shall be exercised independently and only for the period set forth in the Basic Lease Provisions. Unless Landlord and Tenant mutually agree to exercise any such option, each option shall be deemed expired automatically and the term shall be deemed to convert to month to month tenancy.
4. **CONSIDERATION.** In lieu of rent, Tenant hereby covenants and agrees to construct and maintain in good repair the Tenant Improvements shown on Exhibit B for the entire Term of the Lease and in accordance with the terms of the ECHO Grant Agreement. In the event Tenant fails to maintain the Premises in good and safe repair, Tenant shall be deemed in breach of the terms of the Lease and Landlord shall give Tenant notice and opportunity to cure in accordance with the provisions of this Lease.
5. **LEGAL COMPLIANCE.** In connection with its use and occupancy of the Premises, Tenant shall comply with all laws, ordinances, rules, regulations and orders of any governmental authority having jurisdiction over Tenant or the Premises as well as any Restrictions.

6. **GRANT OF EASEMENTS.** Landlord shall grant to Tenant all easements available to Landlord for the benefit of the Premises that include the exclusive and non-exclusive rights as may be reasonably required now or in the future by Tenant for constructing, maintaining and replacing the Tenant Improvements in accordance with the Site Plan.

7. **DELIVERY; IMPROVEMENTS AND ALTERATIONS.**

(a) **Delivery.** As of the Delivery Date, Tenant shall take possession of the Premises in as-is condition with existing improvements in place, free and clear of any rights of occupancy or possession of any other party. The Delivery Date and satisfaction of the aforesaid conditions shall be evidenced by Landlord's delivery of a fully executed Lease to Tenant. The Delivery Date shall be deemed to be the same date as the Effective Date shown on the Lease unless otherwise agreed in writing. The Effective Date shall be initially filled in by the Landlord, who shall be the last party to execute the Lease.

(b) **Tenant Alterations.** Subject to the terms of this Lease, Tenant shall have the right to construct the Tenant Improvements upon the Premises as shown on Exhibit B. Should Tenant desire to make any deviation from the Site Plan, Tenant shall do so only upon written consent of Landlord. Landlord shall not unreasonably withhold consent or interfere with Tenants design choices or branding concepts. Landlord's consent is required solely for the purpose of ensuring compliance with other contractual and governmental restrictions on the property that may or may not exist as of the Effective Date and to ensure that every effort is made to maximize the number of automobile parking spaces available to the public. Construction and maintenance of any improvements on the Premises shall be performed in a good and workmanlike manner and in accordance with all applicable laws, statutes, ordinances, rules and regulations and in compliance with any Restrictions.

(c) **Title to Personal Property.** The Tenant Improvements upon the Premises shall be and remain the property of Tenant during the Term, and upon expiration of the Term, or earlier termination of this Lease, title to all such Tenant Improvements except as provided herein, shall become vested in Landlord. Notwithstanding that the Tenant Improvements constructed on the Premises by Tenant shall become the property of Landlord upon expiration or earlier termination of this Lease, Tenant shall retain title to, regardless of how it is affixed to the Premises, and, at the expiration or earlier termination of this Lease, shall remove from the Premises, Tenant's proprietary items, trade fixtures, business equipment, inventory, trademarked items, branded items, signs, and Tenant's other personal property; provided, Tenant shall not be obligated to remove any of Tenant's personal property which is attached to the realty or which would require structural repairs to the Premises upon such removal. Tenant shall repair all damage caused by removal of any of its personal property from the Premises, excluding reasonable wear and tear. All items not so removed within one (1) month of expiration or earlier termination of this Lease, at Landlord's option, shall be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without Notice to Tenant and without any obligation to account for any such items.

8. **CONTIGENCY PERIOD.** Tenant's obligation to perform hereunder is made expressly contingent upon the satisfaction or waiver of the Contingencies within the Contingency Period.

(a) **Contingencies.** "Contingencies" are defined as items that confirm Tenant may develop and use the Premises for Tenant's Permitted Use based upon

receipt of or determination of an ECHO Grant Agreement and that it will be able to obtain in a form reasonably satisfactory to Tenant, the following: (i) if not already obtained, duly effective approval of the entire lease transaction by the New Smyrna Beach City Commission; (ii) a determination that water, gas, electricity, sanitary sewers, storm sewers and other necessary public utilities (collectively, "**Utilities**") are immediately on or contiguous to the Premises and are adequate for Tenant's Permitted Use; (iii) any state or federal approvals reasonably necessary for Tenant to commence its work on the Premises. Tenant shall use reasonable efforts to promptly satisfy all of the Contingencies.

In the event Tenant is not able to satisfy the Contingencies within Contingency Period, Tenant shall have the right at any time, prior to the expiration of the Contingency Period, to terminate this Lease upon Notice to Landlord. Provided Tenant is using reasonable efforts during the Contingency Period, Landlord agrees to extend the Contingency Period for two (2) additional ninety (90) day periods at the request of Tenant.

(b) Investigations; Access. Commencing on the Effective Date, Tenant and its agents, contractors, engineers and other duly authorized representatives shall have the right to enter upon the Premises and, at Tenant's sole cost and expense, perform such economic, surveying, engineering, topographic, environmental, and other tests, studies and investigations (collectively, "**Tenant's Investigations**") as Tenant reasonably deems appropriate; provided, all Tenant's Investigations shall be conducted in a manner that minimizes any disruption to the Premises and does not result in the creation of a hazardous condition or cause damage to the Premises.

(c) Landlord Information. To the extent that Landlord has not done so already, Landlord shall provide Tenant with all available information and documents concerning the Premises as Tenant may reasonably request.

(d) Landlord's Cure Period. If, in Tenant's reasonable judgment, within the Contingency Period, Tenant is not satisfied with the results of any of the Contingencies, then, prior to the expiration of the Inspection Period, Tenant shall notify Landlord in writing ("**Tenant's Objection Letter**") specifying any such objections and defects. Landlord shall use reasonable efforts to cure such objections and defects within thirty (30) days after receipt of Tenant's Objection Letter. If Landlord fails to correct Tenant's objections to Tenant's satisfaction, Tenant may, in addition to any other rights or remedies it may have, elect to: (a) terminate this Lease, (b) waive the objection, or (c) extend the time for Landlord's correction.

9. INSURANCE. Tenant is insured against loss through the Florida Municipal Insurance Trust of the Florida League of Cities. Tenant shall require any design professionals and/or contractors performing improvement to the Premises, or any third parties performing any service or commercial activity on the Premises to be insured in coverage types and amounts as reasonably required by the Landlord, which requirements shall be sought by Tenant in advance of executing any contract for said improvements or services. In no event shall those coverage types and amounts be less than \$1 Million Dollars for general commercial general liability per occurrence including completed operations and products liability and no less than \$1M Errors and Omissions for design.

10. QUIET ENJOYMENT. Landlord agrees that Tenant, upon paying Rent and performing the covenants and conditions of this Lease, may quietly have, hold and enjoy the Premises

during the Term without hindrance or interruption by Landlord or any other person claiming by, through or under Landlord, subject, however, to the provisions of this Lease. Landlord further represents and warrants that it has good title, full power and lawful authority to enter into this Lease for the Term.

11. **SOVEREIGN IMMUNITY.** Pursuant to Section 768.28, Florida Statutes, neither the Landlord nor the Tenant waives any defense of sovereign immunity, or increases the limits of its liability, upon entering into this Agreement. This Agreement does not contain any provision that requires one party to indemnify or insure the other party for the other party's negligence, or to assume any liability for the other party's negligence.

12. **MAINTENANCE OF PREMISES.** Tenant shall maintain and repair, at its expense, the existing and Tenant Improvements including, but not limited to paving, slabs, curbs, driveways, perimeter walls, bulkhead/seawall, storm drains, sewers, utility lines and landscaping on the Premises, in a state of good condition and repair, ordinary wear and tear excepted. Landlord shall have no duty to perform maintenance and repair on the Premises.

13. **DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS.**

(a) **Notice of Damage or Destruction.** Tenant shall give Notice to Landlord of all occurrences in, on or around the Premises that result in any damage or destruction to the Premises or any part thereof, generally describing the nature and extent of the damage or destruction.

(b) **Obligation to Restore.** If the Premises shall be damaged or destroyed by any cause covered by insurance, Tenant shall promptly restore the Building and other improvements on the Premises, fixtures, equipment and personal property and reopen for public use, subject to **Section 13(c).**

(c) **Tenant's Rights to Terminate for Damage to the Premises.** If any part or portion of the Premises shall be damaged or destroyed and (i) Tenant reasonably estimates that the damage or destruction cannot be restored within one hundred eighty (180) days of the event of damage or destruction or such property is not, after using commercially reasonable efforts, restored within one hundred eighty (180) days of the event of damage or destruction, or (ii) the damage or destruction occurs during the last three (3) years of the Term, Tenant shall have the right to terminate this Lease by giving Notice to Landlord, and Tenant shall not be required to repair, restore, replace or rebuild as provided in this **Section 13.**

14. **ADDITIONAL INSTRUMENTS.** Provided the same are reasonably acceptable to Landlord and Tenant, the party so requested shall, whenever and as often as it shall be required so to do by the other party and in accordance with this Lease, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any and all further instruments and documents as may be reasonably required in order to complete any and all transactions or to accomplish any and all matters and things as provided in this Lease; provided that the same shall not increase the Party's obligations nor decrease the Party's rights under this Lease.

15. **TENANT DEFAULT.** A Default occurs if Tenant shall fail to perform, comply with or observe any covenant, condition or agreement of this Lease, and Tenant shall fail to cure such failure within thirty (30) days following receipt of Notice from Landlord; provided if the nature of

the Event of Default is such that it cannot reasonably be cured within such thirty (30) day period, so long as Tenant has commenced the cure within such thirty (30) day period and diligently pursues the same, the cure period shall be extended for such period as may reasonably be required to cure the Default.

16. **REMEDIES.**

(a) **Generally.** If any Default occurs, Landlord may, at its option and in addition to any and all other rights or remedies provided Landlord in this Lease or at law or equity, immediately, or at any time thereafter, and without further demand or Notice (except as provided herein and provided Landlord uses commercially reasonable efforts to mitigate damages):

A. If the Event of Default pertains to work or other obligations to be performed by Tenant, without waiving such Default, enter upon the Premises and perform such work or other obligation, or cause such work or other obligation to be performed, for the account of Tenant, and Tenant shall on demand pay to Landlord the cost of performing such work or other obligation; or

B. Terminate this Lease by Notice to Tenant.

(e) **Additional Provisions.** The remedies given to Landlord and Tenant in this Lease are not exclusive and are cumulative, and shall be in addition and supplemental to all other rights or remedies which Landlord or Tenant may have under laws then in force. The waiver by Landlord or Tenant of any breach of any term, covenant or condition herein contained, or Landlord or Tenant's failure to exercise any remedy herein, shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained.

17. **LANDLORD DEFAULT.** Landlord shall in no event be charged with default in the performance of any of its obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days after Notice has been given by Tenant to Landlord specifying wherein Landlord has failed to perform any such obligation; provided, so long as Landlord has commenced the cure within such thirty (30) day period and diligently pursues the same, the cure period shall be extended for such period as may reasonably be required to cure the default. In the event of Landlord's uncured default or breach, Tenant, at its option, without further Notice or demand, shall have the right to terminate the Lease. Tenant's right to damages, pursuant to the preceding, shall be limited to reimbursement of the pro rata unamortized costs of the Tenants contribution (non ECHO Grant funds) to the design and construction of improvements to the Premises

18. **ASSIGNMENTS OR TRANSFER.** Notwithstanding anything herein contained to the contrary, Tenant shall have the right to sublease the Premises or assign the Lease to a third party only with the prior written consent of Landlord.

19. **ENVIRONMENTAL MATTERS.** Tenant shall not cause or permit to occur the use, generation, manufacture, release, discharge, storage, disposal or transportation of any Hazardous Materials on, under, in, above, to or from the Premises other than as may be required as a normal activity arising from Tenant's Permitted Use of the Premises or construction of the Tenant Improvements (or as specifically disclosed in writing by Tenant to

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Landlord), and in strict compliance with all applicable federal, state, and local laws, regulations and orders. For purposes of this Lease, "**Hazardous Materials**" shall refer to any substances, materials and wastes that are regulated as hazardous or toxic substances under any applicable local, state or federal law, regulation, or order including, without limitation, flammable, explosive or radioactive materials, asbestos, polychlorinated biphenyls (PCBs), mold, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products or fractions thereof and shall exclude food related substances typically found in grease traps as a result of restaurant use. Tenant shall indemnify, defend, protect and hold Landlord harmless from and against any loss, cost, expense, claim, fines, suits, demands or liability arising from the presence, use, generation, manufacture, release, discharge, migration, storage, disposal or transportation of any hazardous materials or arising out of any investigation, monitoring, clean-up, containment, removal, storage or restoration work (collectively, "**Remedial Work**") necessarily incurred by Landlord arising out of a default of the obligations of Tenant set forth above. In the event any such Tenant-caused Remedial Work is so required under any applicable federal, state or local law, Tenant shall perform or cause to be performed the Remedial Work in compliance with such law, regulation or order. All Remedial Work shall be performed by one or more contractors under the supervision of a consulting engineer, each selected by Tenant and reasonably approved in advance in writing by Landlord. In the event Tenant shall fail to prosecute diligently the Remedial Work arising out of its default of the obligations set forth above to completion, Landlord may, but shall not be required to, cause the Remedial Work to be performed.

Landlord warrants and covenants that neither it nor its agents, employees or contractors have caused or will cause or permit the presence, use, generation, manufacture, release, discharge, storage, disposal or transport of any Hazardous Materials on, under, in, above, to or from the Premises other than as may be required as a normal activity arising from lawful use of or improvements on the Premises and in strict compliance with all applicable federal, state and local laws, regulations, ordinances and orders. Landlord shall indemnify, defend, protect and hold Tenant harmless from and against any loss, cost, expense, claim, fines, suits, demands or liability arising from the presence, use, generation, manufacture, release, discharge, migration, storage, disposal or transportation of any hazardous materials or arising out of any Remedial Work (including reasonable attorneys' fees for Tenant's counsel of choice) necessarily incurred by Tenant in connection with the presence, use, generation, manufacture, release, discharge, migration, storage, disposal or transportation of any Hazardous Materials on, under, in, above, to or from the Premises either (i) existing prior to the Delivery Date or (ii) due to Landlord's acts or omissions. Notwithstanding any provision to the contrary in this Lease, in the event any Remedial Work requiring Tenant to close operations for its permitted use is performed as a result of Hazardous Materials either (i) existing on the Premises prior to the delivery of the Premises to Tenant as provided herein or (ii) not caused or permitted by Tenant or its agents, employees or contractors, Rent shall be completely abated for the period of required closure including the reasonable time thereafter it takes Tenant to reopen for Tenant's Permitted Use. In addition, if such Remedial Work requires closure of operations for Tenant's permitted use for a period of one hundred eighty (180) days, Tenant may, upon Notice to Landlord, terminate this Lease and Landlord shall reimburse Tenant for the Unamortized Cost of Tenant Improvements within thirty (30) days of invoicing for the same by Tenant. Additionally, Landlord shall be solely responsible for costs which may arise from compliance with the Clean Air Act of 1990, as amended, and the regulations thereto, as same may be amended unless such costs arise due to tenant improvements or modifications to the Premises in which event, Tenant shall be responsible for the costs to achieve compliance.

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20. **NOTICES.** All notices required or permitted hereunder shall be in writing and shall be deemed to be delivered when actually received if personally delivered, or within forty-eight (48) hours after deposit with a nationally recognized express delivery service, or within three (3) days after deposit in the United States Mail, postage prepaid, registered or certified mail, return receipt requested ("**Notice**"), addressed to Landlord or Tenant, to their respective Notice addresses as set forth in the Basic Lease Provisions. Either party hereto may change the address for Notice specified above by giving the other party five (5) business days advance Notice of such change of address.

21. **MISCELLANEOUS.**

(a) **Entire Agreement.** The Lease contains the entire agreement between the parties, and this Lease supersedes and cancels any and all previous negotiations, arrangements, representations, agreements and understandings, if any, between the parties with respect to the subject matter hereto. No rights are conferred upon Landlord or Tenant until both parties have executed the Lease.

(b) **Interpretation; Headings.** All terms and words used in the Lease, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of the Lease or any portion of the Lease may require, the same as if such words had been fully and properly written in the number and gender. The headings to the sections of the Lease are inserted only as a matter of convenience and for reference, and in no way confine, limit or proscribe the scope or intent of any section of the Lease, nor in any way affect the Lease.

(c) **Counterparts.** The Lease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed original, but such counterparts together shall constitute but one and the same instrument.

(d) **No Joint Venture; No Partnership.** Landlord and Tenant are not and shall not be considered joint venturers or partners and neither shall have power to bind or obligate the other.

(e) **Holdover Rent.** In the event Tenant, or any party under Tenant, continues to occupy the Premises after the expiration of the Term, a tenancy from month-to-month only shall be created. This section shall not be construed as Landlord's consent for Tenant to holdover or extend the Lease except pursuant to an Option.

(f) **Severability.** If any provision of the Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of the Lease, or the application of such term or provision to persons whose circumstances are other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

(g) **Modification; Amendment.** No modification, alteration or amendment of the Lease shall be binding unless in writing and executed by the parties.

(h) **Successors and Assigns.** Subject to the provisions of **Section 18** and **subsection (j)** below, the Lease shall be binding upon and inure to the benefit of the parties, their successors and assigns.

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(i) Dates and Times; Force Majeure. Reference to days in this Lease means consecutive calendar days including weekends and holidays. In the event any time period provided for in this Lease expires on a weekend or legal holiday (being defined as any holiday recognized by the United States Postal Service, the City of New Smyrna Beach, or the County of Volusia), the time period shall be automatically extended to the next business day. Unless otherwise specified herein, any period less than five (5) days will be considered business days. Any prevention, delay or stoppage due to strike, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, failure of power, governmental restrictions, governmental approvals, judicial orders, riots, insurrection, enemy or hostile governmental action, terrorism, civil commotion, fire or other casualty, and other reason of a similar or dissimilar nature beyond the reasonable control of the party obligated to perform ("**Force Majeure**"), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage and the period for the performance of any act shall be extended for the period of the delay. Force Majeure shall excuse the performance by that party for a period equal to the prevention, delay or stoppage; provided the party prevented, delayed or stopped shall have given the other party written notice thereof within ten (10) days of such event causing the prevention, delay or stoppage, together with a reasonable estimate of the time period of such delay. The provisions of this Section shall not, at the option of the affected party, operate to extend the Term. The Rent Commencement Date shall be subject to the provisions of this Section. Delays or failure to perform resulting from lack of funds or financial inability shall not be deemed delays beyond the reasonable control of a party.

(j) Transfer of Landlord's Interest. Landlord shall promptly notify Tenant in writing of any change in the ownership of the Premises by giving the name and address of the new owner. If Landlord transfers the Premises by sale or exchange, such sale or exchange shall be made expressly subject to this Lease. Upon such transfer, the transferring Landlord shall be released by Tenant from all liabilities, obligations and responsibilities as Landlord hereunder which accrue after the date of transfer. Upon request by the successor Landlord, Tenant shall attorn to the successor landlord if the successor agrees in writing that Tenant's rights under this Lease shall be recognized and not disturbed so long as Tenant is not in default. Any additional costs incurred or work required as the result of the transfer, subdivision or replatting of the Premises or the parcel of land containing the Premises, including, but not limited to, the cost of installing additional utility lines or meters serving the Premises, shall be Landlord's responsibility.

(k) Public Records. This Lease is subject to all public records laws of the State of Florida.

(l) Consents. Unless otherwise specified herein, whenever a party is asked to provide consent under this Lease, such party shall not unreasonably withhold, condition or delay giving the consent requested. In the event of failure to give any such consent, the party seeking it shall be entitled to specific performance at law and shall have such other remedies as are reserved to it under this Lease or at law or equity. Furthermore, whenever this Lease grants a party the right to take action, exercise discretion, establish rules and regulations, or make allocations or other determinations, such party shall act reasonably and in good faith.

(m) Applicable Law. The laws of Florida shall govern the validity, performance and enforcement of this Lease. This Lease shall not be construed either for or against Landlord or Tenant, but this Lease shall be interpreted in accordance with the general tenor of the language in an effort to reach an equitable result. If either party institutes legal suit or action for

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enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be Volusia County or the United States District Court having jurisdiction over such county.

(n) Payment and Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other, or as to any work to be performed by either of them under this Lease, then the party against whom the obligation to pay the money or to perform the work is asserted shall have the right to make payment or to perform the work "under protest" and such payment shall not be regarded as a voluntary payment or performance, and such party shall thereafter have the right to institute suit for the recovery of such sum or for the recovery of the costs of such work. If it shall be adjudged or determined that there was no legal obligation to pay such sum or perform such work or any part thereof, then the party paying such sum or performing such work shall be entitled to recover from the other party such sum or the costs of such work or so much thereof as it was not required to pay or perform.

(o) Mitigation. With respect to any defaults by a party under this Lease, the other party shall use commercially reasonable efforts to mitigate any damages caused thereby.

(p) Waiver of Jury Trial. Each party with knowledge of its rights, voluntarily waives all rights to trial by jury in all proceedings for which a trial by jury would otherwise be available or required and which involve any matter arising out of or connected with rights or duties under, or enforcement, or interpretation of, this Lease.

[SIGNATURES ON THE FOLLOWING PAGE]

## Look Ahead -2014-Topics

TOP Priorities-Completion of numerous Capital Projects (over \$20M), which are expanding current facilities City-wide, major stormwater improvements on beachside; and improving the overall appearance of the City; Long-Term Financial Plan and discussion on restoring service levels; Environmental Issues impacting Indian River Lagoon; Continuing our outreach efforts through the neighborhood council, strengthening regional partnerships, and 2014-2039 Community Wide Visioning Process(Charting the Course for NSB)

Below are numerous specific examples of the above priorities:

Babe James Community Center, design approved by Commission, and now ready for bidding out, to be under construction in 2014

2013 FIND grant to update n. causeway boat ramps facilities, under design in 2014 & under construction in 2015

2014-15 Beautification of north causeway funded by CRA and FDOT (Design in 2014; Construction in 2015)

2014-2017 Debt service projects 7.8m to be designated & permitted in 2014 (Brannon Center and City Hall)

May 2015 End of CRA will be reflected in FY 2014- 2015 budget

New CRA for US1 revitalization being finalized (series of community meetings in 2014).

Health of Indian River Lagoon. Address impact of fertilizers & septic systems, will be topic for joint meeting with Edgewater, and perhaps both US 1 CRAs in spring 2014.

New Downtown housing units at Julia & Sam, will have agreement points for Commission on Jan 28<sup>th</sup>. Also new single family housing, w/housing authority; agreement approved in the fall for Julia and Railroad properties.

Two mile pedestrian trail bid awarded under construction in 2014, which will lead to development of Otter Lake Park area as Mid Trail Head between Mission and Sugar Mill. 2013 ECHO grant application for development of the park site.

Colony Park road extension will be bid out for construction in 2014 (final permitting is underway); SR 44 will continue to see major new development as well.

Riverwalk master plan for north causeway, continue the partnerships with residents and MDC and FIND. Example MDC can apply for grants to remove Brazilian peppers from south side blocking water views and FIND can assist with master plan and construction of river walk segments; this will also involve the

planning efforts for AOB site. City Commission will readdress in Jan 2014.

Communication of priority budget efforts, true projections and costs for enhancing public safety, Maintenance & Parks Master Plan for the long-term financial planning effort

Filling two major positions, Asst. Finance Director & Sports Complex Manager; and another round of major retirements over next 5 years from fire, police, fleet maintenance, to recreation & special events

Assisting the local merchant associations on 3<sup>rd</sup>, Canal & Flagler, after the end of current CRA

Get direction on parking system for ocean front lots. Secure ECHO grant for South Atlantic Beach Park (another 90 spaces on south atlantic b/t Flagler & 3<sup>rd</sup>)

Constructing over \$1m in sidewalks in 2014 and 2015 (last of General Obligation Bond)

Opening new fire HQ on SR 44, continue SEV partnerships, as well as Volusia County Fire Svcs.

Hosting FEMA emergency training in April, hosting with the City of Edgewater to keep our city resources ready for community emergencies

Continue working on finding additional sources of funding for the central beach flood mitigation project.

Pursue specific partnership opportunities with Bert Fish to help them expand at current location

Complete update of 2010 Economic Development Plan

Maximize utilization of the Airport Industrial Park

Continue to provide assistance to business owners who wish to expand or locate in NSB

Obtain funding for Third Ave gateway and park improvement project from FDOT and ECHO

Continuing annexation strategies to implement the Inter Local Service Agreement with Volusia County

And most important, the Citywide Visioning Events 2039 Charting the Course, is the community OK with current course or do we need to make course adjustments



## ***ECONOMIC DEVELOPMENT NEWSLETTER***

*January, 2014*

- ✓ News Journal Article Recognizes New Smyrna Beach as “City on the Move”

The lead story in the January 2 edition of The Daytona Beach News-Journal reported that the City of New Smyrna Beach is poised to grow with ‘superior’ property, and a western expansion. “County Property Appraiser Morgan Gilreath said that despite having markets over the past five to seven years “that were worse than anything we’ve ever seen,” New Smyrna Beach has weathered the storm and he expects the city of a little more than 22,000 to continue to be a leader in the recovery. “In any market that we have, be it up, down or sideways, New Smyrna has real estate locations that are superior to almost anywhere else in our county,” Gilreath said.

The article also notes the progress in commercial development. “Commercial growth along State Road 44, booming since the arrival of a Walmart there in 2011, show no signs of waning. A hotel, two automotive dealerships, two medical buildings – including a \$14.5 million Florida Hospital outpatient center – are among the either new or pending arrivals there within the next few years.”

- ✓ City Commission suspends the collection of city Police, Fire, and Transportation Impact Fees until July 1.

At the December 10, 2013 meeting the City Commission suspended the collection of city Police, Fire, and Transportation Impact Fees until July 1, 2014. The fees had been suspended for two years, and city staff had recommended collecting half of the fee amount in 2014 and the entire fee amount in 2015. A member of the audience stated that a development planned for SR 44 would not take place if the staff recommendation was implemented. After a discussion, the Mayor suggested holding off until July 1, and then collecting 100% of the fee, which would conceptually provide the same results. The Mayor’s recommendation was approved.

- ✓ Activity on City-owned properties made available for development
  - Four Proposals Received for the AOB site

Four development proposals were received in response to a Request for Proposals issued for City-owned property (4.4 acres, known as the Administrative Office Building or AOB site) at 160 Causeway, fronting the Intra-Coastal Waterway. The proposals were reviewed by a staff committee at a public meeting and representatives of the two final-

ists made presentations to the City Commission in December. The City Commission is scheduled to make a decision at the January 14 regular meeting.

- Property at 103 Faulkner St scheduled for January 28 City Commission meeting

There was one response to a Request for Proposals for this 1.4 acre property downtown immediately south of City Hall. A Letter of Intent is scheduled to be presented to the City Commission at the January 28 regular meeting.

- Five residential lots on Columbus Ave

These lots were the former site of a City fire station that was demolished several years ago. An appraisal established a base value of \$100,000 per lot, and one bid (\$115,000 each) was received for four lots and three bids were received for one lot (the western-most lot). The highest bid for that lot, \$125,200, was approved. The transactions for all five lots closed in late December.

- ✓ Commercial/Industrial building activity continues to be strong.

New Smyrna Beach is one of only four cities in Volusia County that has had “new construction” commercial building permits issued for every quarter since the third quarter of 2011. Commercial/Industrial projects currently under construction/renovation or recently opened include:

- The Florida Hospital Medical Office Building in the SE quadrant of I-95/SR 44 is now under construction. A two story, 32,000 square foot building will be constructed on the 20.33 acre site.
- Renovation of spaces in the Canal St Center continues. TUI, a store for personalized printed items and copy machines, is planning to move into the space at the SE corner of US 1 and Canal St.
- Famous Philly’s, a Port Orange restaurant known for its Philly Cheesteak sandwiches has opened a second location at 102 Cooper St near Flagler Ave.
- Paradise Power Sports has opened at 920 E Third Ave. This two story former office building has been renovated for this business offering a variety of motorcycles, ATVs, and personal watercraft.
- The building at 1889 SR 44 that had formerly housed JJ Fin’s and Gilly’s Pub 44 is being readied for a new restaurant planning to open February 1.
- Nejma’s Boutique at 319 Flagler Ave is completing construction on a new 1,634 sq foot building at the back of the property. The building is fully leased.
- City projects:
  - A new parking lot to serve the Canal St Historic District, at the NW corner of US 1 and Canal St is now open.
  - The City’s new Fire Station, SR 44 at W Canal St., is now under construction.
  - A new boat ramp is under construction east of US 1 and the municipal airport, at the intersection of US 1 and South St.

- ✓ Projects in the planning stages include:

- Alba Court, 113 Washington, Senior Housing building
- Extension of Colony Park Rd., from SR 44 North to Otter Blvd and Pioneer Trail.

- Landscaping the SW corner of US 1 and Canal St through a lease proposed with the Flagler Development Group.
  - The City of New Smyrna Beach is preparing an application to the Volusia County Council for a new Community Redevelopment Agency (CRA). The City's current CRA sunsets in May, 2015. It is anticipated that the application to the Volusia County Council will be submitted in April, 2014. Meetings will be held as follows to discuss the draft Master Plan, which can be reviewed elsewhere on this website:
    - Monday, January 13, 11 am, Babe James Community Center, 210 N. Myrtle Ave
    - Tuesday, January 14, 6 pm, Brannon Center, 105 S. Riverside Dr.
    - Wednesday, January 15, 1 pm, NSB Police Station, 246 Industrial Park Ave.
    - Tuesday, January 21, 6 pm, at Waterway West Clubhouse, 315 N. Causeway
    - Thursday, January 23, 6 pm, Commission Chambers, City Hall, 210 Sams Ave.
  - The cities of New Smyrna Beach, Edgewater, and Oak Hill have been awarded a US EPA Brownfield grant. Each city will be allocated \$200,000 to pay for approved applications for Phase I and Phase II environmental site assessments. The City of Edgewater is administering the grant.
- ✓ The "City Ready" service provides an on-site meeting at no charge with key City staff members (Economic Development Director, the Building Official, and a member of the Planning Department) to discuss how a potential buyer or property owner can maximize the use of a commercial building and/or property. Such meetings normally take less than one hour and provide a wealth of useful information for business planning.
  - ✓ For prominent Commercial/Industrial properties for sale or lease, please go to [Volusiasites.com](http://Volusiasites.com) and click on New Smyrna Beach.
  - ✓ The New Smyrna Beach Economic Development Advisory Board typically meets on the third Wednesday of every month in the City Commission Chambers at City Hall at 6 pm. Meeting agendas are posted on the City's website, [cityofnsb.com](http://cityofnsb.com).

*For further information contact Tony Otte: [totte@cityofnsb.com](mailto:totte@cityofnsb.com); 386.424.2265 (office) or 386.566.3941(cell)*