AGENDA
Regular City Council Meeting
Monday, December 1, 2025, 6:00 PM
Council Chambers, 116 First Street, Neptune Beach, Florida

1. CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE

2. AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS / NONE

3. APPROVAL OF MINUTES

   A. **November 3, 2025, Regular City Council Meeting**
   November 17, 2025, Special City Council Meeting
   November 17, 2025, Workshop City Council Meeting
   November 17, 2025, Town Hall Meeting p. 3

4. COMMENTS FROM THE PUBLIC

5. CITY MANAGER REPORT p. 17

6. CONSENT AGENDA

   A. RESOLUTION NO. 2025-22, A Resolution of the City of Neptune Beach, Florida, Authorizing to Join with Other Local Governmental Units as a Participant in the Florida Municipal Investment Trust (FMIvT) for the Purpose of Purchasing Shares of Beneficial Interest in the Trust p. 24

   B. RESOLUTION NO. 2025-27, A Resolution of the City of Neptune Beach, Duval County, Florida, Pursuant to Section 196.1978(3)(O), Fla. Stat., Electing to Not Exempt Property From Ad Valorem Property Tax Under Section 196.1978(3)(d)1.a., Fla. Stat., Commonly Known as the "Live Local Act Property Tax Exemption"; Providing for Incorporation of Recitals, Required Findings, Direction to the Mayor, Direction to the City Manager, Applicability, Severability, and a Conditional Effective Date p. 28

   C. The Vertex Companies, LLC, Contract for City of Neptune Beach Life Safety and Fire Protection 3rd Party Plan Reviews and Inspections p. 48

7. VARIANCES / SPECIAL EXCEPTIONS / DEVELOPMENT ORDERS / NONE

8. ORDINANCES

PH A. ORDINANCE NO. 2025-18, SECOND READ AND PUBLIC HEARING, An Ordinance of the City of Neptune Beach, Florida, Amending the Code Of Ordinances, Division 7 – Review of Administrative, Legislative and Quasi-Judicial Decisions, Article III – Administrative and Enforcement Procedures, To Amend Section 27-133, Titled "Review of Administrative Decisions"; Removing Requirement that the Initiation of an Administrative Appeal Will Stay All Actions Required by or Relating to the Decision Being Appealed; Providing for Repeal of Conflicting Ordinances and Resolutions; Providing for Severability; and Providing an Effective Date p. 64

PH B. ORDINANCE NO. 2025-19, FIRST READ AND PUBLIC HEARING, An Ordinance Granting to the City of Jacksonville Beach, Florida, Doing Business as Beaches Energy Services, Its Successors and Assigns, the Right and Franchise to Operate an Electric Transmission and Distribution System in the City of Neptune Beach and to Construct, Maintain, Operate and Extend Electric Transmission and Distribution Lines in the Public Rights-of-Way of said City; Providing the Terms and Conditions of Such Franchise; Providing Terms and Conditions for the Undergrounding of Electric Facilities Within the City of Neptune Beach; Providing for Monthly Franchise Fee Payments to the City of Neptune Beach; Providing for Either Party's Right to Terminate the Franchise Agreement Created Hereby under Specified Circumstances; Providing for Repeal of Inconsistent Provisions in Other City Ordinances; and Providing for an Effective Date p. 70

PH C. ORDINANCE NO. 2025-20, FIRST READ AND PUBLIC HEARING, An Ordinance of the City of Neptune Beach, Florida, Amending the Code of Ordinances, Division 8 – Variances, Article III– Administrative and Enforcement Procedures, to Enact Section 27-145.1, titled "Certified Recovery Residences"; Providing for Repeal of Conflicting Ordinances and Resolutions; Providing for Severability; and Providing an Effective Date p. 142

9. OLD BUSINESS

   A. Updated Parking Program

10. NEW BUSINESS

   A. RESOLUTION NO. 2025-26, A Resolution of the City Council of the City of Neptune Beach, Florida, Authorizing the Establishment of An Investment Plan for the Management of City Funds p. 161
   B. Florida League of Cities Legislative Conference
   C. Relocation of City Hall

11. COUNCIL COMMENTS

12. ADJOURN

In accordance with Section 286.0105, Florida Statutes, any person desirous of appealing any decision reached at this meeting may need a record of the proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statute, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at least 48 hours prior to the meeting.

MINUTES
REGULAR CITY COUNCIL MEETING
MONDAY, NOVEMBER 3, 2025, 6:00 P.M.
NEPTUNE BEACH CITY HALL
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice, a Regular City Council Meeting of the City Council of the City of Neptune Beach was held on Monday, November 3, 2025, at 6:00 p.m, at Neptune Beach City Hall, 116 First Street, Neptune Beach, Florida 32266

IN ATTENDANCE:	STAFF:
Mayor Cori Bylund	City Manager Richard Pike
Vice Mayor Nia Livingston	City Attorney Paul Waters
Councilor Tim Horvath	Chief of Police Michael Key
Councilor Josh Messinger *(via CMT)*	Public Works Director Deryle Calhoun
Councilor Brent Rogers	Community Development Director Heather Whitmore
	Senior Accountant Michael Owens
	Parks and Sustainability Director Colin Moore
	Senior Center Director Leslie Lyne
	Project Manager Blake West
	City Clerk Catherine Ponson

Call to Order/Roll Call — Mayor Bylund called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance

APPROVAL OF MINUTES

Minutes — Made by Livingston, seconded by Horvath.

MOTION: TO APPROVE THE FOLLOWING, AS AMENDED:

October 6, 2025, Regular City Council Meeting
October 20, 2025, Special City Council Meeting
October 20, 2025, Workshop City Council Meeting
October 20, 2025, Town Hall Council Meeting

Roll Call Vote:
Ayes: 5 – Horvath, Livingston, Messinger, Rogers and Bylund
Noes: 0

MOTION CARRIED

PUBLIC COMMENTS

Public Comments — Jack Sminkey, 59 Oak Knoll Court, St. Augustine, spoke regarding recent police reports and concerns of retaliation.

Natasha Facklam, 118 Hall Place, Neptune Beach, stated her concerns regarding noise coming from bars in the Beaches Town Center area after 10 p.m. She requested something be done.

Glen Sherouse, 100 Hall Place, Neptune Beach, also spoke regarding the noise from the bars in the areas. He lives directly across from Pete's Bar patio.

Albert Lanier, 1924 Strickland Road, Neptune Beach, thanked the City for the recent installation of showers at the beach accesses.

Mayor Bylund stated that the City is aware of the noise issue. There is a reasonable person's standard when it comes to the volume of noise any hour. She stressed to call the Police Department when there is an issue.

CITY MANAGER REPORT

City Manager reports can be located on the City of Neptune Beach website at: https://www.nbfl.gov/city-manager/pages/city-manager-reports.

Mayor Bylund announced "Movies with the Mayor" would be held on Friday, November 14, 2025, in Jarboe Park. The food trucks would start at 5:30 p.m. and the movie *Ratatouille* would begin at 6:00 p.m.

CONSENT AGENDA

Waste Pro Debris Removal

Waste Pro Storm Debris Removal Contract

Speed Camera Hearings

Speed Camera Hearings-Memorandum of Understanding between the Division of Administrative Hearings and the City of Neptune Beach

Made by Livingston, seconded by Messinger.

MOTION: TO APPROVE THE CONSENT AGENDA

Roll Call Vote:
Ayes: 5-Livingston, Messinger, Rogers, Horvath, and Bylund
Noes: 0

MOTION CARRIED

Appeal of V25-06

Applicant's Appeal of Variance Letter of Denial -V25-06, 1621 5th Street - Deferred at the Request of the Applicant

ORDINANCES

Ord. No. 2025-18, Sec. 27-133(d)

Ordinance No. 2025-18, First Read and Public Hearing. An Ordinance of the City of Neptune Beach, Florida, Amending the Code Of Ordinances, Division 7 – Review of Administrative, Legislative and Quasi-Judicial Decisions, Article III – Administrative and Enforcement Procedures, To Amend Section 27-133, Titled "Review of Administrative Decisions"; Removing Requirement that the Initiation of an Administrative Appeal Will Stay All Actions Required by or Relating to the Decision Being Appealed; Providing for Repeal of Conflicting Ordinances and Resolutions; Providing for Severability; and Providing an Effective Date

Public Hearing

Mayor Bylund opened the public hearing. There being no comments from the public, Mayor Bylund closed the public hearing.

Made by Rogers, seconded by Livingston.

MOTION: TO APPROVE ORDINANCE NO. 2025-18 AT FIRST READING

Roll Call Vote:
Ayes: 5 –Rogers, Horvath, Livingston, Messinger and Bylund
Noes: 0

MOTION CARRIED

NEW BUSINESS

Mayor Bylund suggested if any Councilmember has any new business they would like to discuss, they could introduce it during new business. This would maximize the opportunity for discussion as Councilmembers cannot discuss items with each other outside of a noticed meeting.

Res. No. 2025-21, Temporary Suspension of Sec. 27-133(d)

Resolution No. 2025-21, A Resolution of the City of Neptune Beach, Florida, Temporarily Suspending Section 27-133(d), Article II, of the City of Neptune Beach Code of Ordinances, and Providing an Effective Date

Public Hearing

Mayor Bylund opened the public hearing. There being no comments from the public, Mayor Bylund closed the public hearing.

Made by Livingston, seconded by Horvath.

MOTION: TO APPROVE RESOLUTION NO. 2025-21

Roll Call Vote:
Ayes: 5 - Horvath, Messinger, Rogers, Livingston and Bylund
Noes: 0

MOTION CARRIED

Res. No. 2025-23. Pete Jensen Way

Resolution No. 2025-23, A Resolution of the City of Neptune Beach, Florida, Honoring Pete Jensen and Declaring a Namesake Honorary Street Designation

Public Hearing

Mayor Bylund opened the public hearing. There being no comments from the public, Mayor Bylund closed the public hearing.

Made by Messinger, seconded by Livingston.

MOTION: TO APPROVE RESOLUTION NO. 2025-23

Roll Call Vote:
Ayes: 5-Messinger, Rogers, Horvath, Livingston and Bylund
Noes: 0

MOTION CARRIED

Pete's Thanksgiving Day Event

Pete's Thanksgiving Day Event – November 27, 2025.

Public Hearing

Mayor Bylund opened the public hearing. There being no comments from the public, Mayor Bylund closed the public hearing.

Made by Horvath, seconded by Livingston.

MOTION: TO APPROVE PETE'S THANKSGIVING DAY EVENT

Roll Call Vote:
Ayes: 5 –Rogers, Horvath, Livingston, Messinger and Bylund
Noes: 0

MOTION CARRIED

Res. No. 2025-24, Friends of Neptune Beach, Inc.

Resolution No. 2025-24, A Resolution of the City of Neptune Beach, Florida, Establishing Non-Profit Entity Titled "Friends of Neptune Beach Parks, Inc." and Providing an Effective Date

Mayor Bylund explained this is the 501(c)(3) for the Jarboe Jubilee event scheduled for June 13, 2026. This will also make it possible to have other events in the City's park system. She added she wanted to have an event that is paid for by community partners. This provides a mechanism to receive donations. This is a Neptune Beach 501(c)(3) and is public.

Public Hearing

Mayor Bylund opened the public hearing. There being no comments from the public, Mayor Bylund closed the public hearing.

Made by Livingston, seconded by Horvath.

MOTION: TO APPROVE RESOLUTION NO. 2025-24

Roll Call Vote:
Ayes: 5 – Horvath, Livingston, Messinger, Rogers and Bylund
Noes: 0

MOTION CARRIED

Res. No. 2025-25, Neptune Beach Senior Center, Inc.

Resolution No. 2025-25, A Resolution of the City of Neptune Beach, Florida, Establishing Non-Profit Business Titled "Neptune Beach Senior Center, Inc." and Providing and Effective Date.

Mayor Bylund stated that the name of the president of the board of directors is blank. The resolution stated that someone from council will serve as president and chairperson. She added that she would serve as no Councilmember expressed interest in serving.

Public Hearing

Mayor Bylund opened the public hearing. There being no comments from the public, Mayor Bylund closed the public hearing.

Made by Livingston, seconded by Rogers.

MOTION: TO APPROVE RESOLUTION NO. 2025-25 ADDING MAYOR CORI BYLUND AS PRESIDENT

Roll Call Vote:
Ayes: 5-Livingston, Messinger, Rogers, Horvath, and Bylund
Noes: 0

MOTION CARRIED

COUNCIL COMMENTS

Council Comments

Mayor Bylund announced that City Hall participated in the Beaches Town Center Agency Trunk or Treat event on Wednesday, October 22, 2025.

A joint Duval School Board and Beaches Mayors meeting was held on Thursday, October 23, 2025, at 5:00 p.m., at Fletcher High School. This was the first meeting that has occurred in many years which is required.

The Sea & Sky Air Show was held on October 25 and 26, 2025. The Blue Angels did not participate the air show was still great.

She attended a naturalization ceremony on Tuesday, October 28, 2025, at University of North Florida. She announced over 50 people received their citizenship at the event. She encouraged everyone to attend a ceremony if possible.

Other upcoming events are: Beaches Watch meeting on Wednesday, November 5, 2025 at the Beaches Library, Beaches Town Center Agency Gala is on Thursday, November 6, 2025 and the Tour of Homes is on Saturday, November 8, 2025. Neptune Beach Elementary School students would be singing the National Anthem and the Jacksonville Icemen game on Friday, November 7, 2025. On November 15, 2025, there will be a World Day of Remembrance for Road Traffic Victims in Jacksonville. This will be held at the Artist Square Park in Riverside where the Riverside Arts Market is held.

Vice Mayor Livingston commended the recent social media posts. This helps keep citizens informed. She also recognized City Clerk Catherine Ponson who recently graduated and received the Florida Professional Certified Clerk designation.

Councilor Rogers suggested adding financial information to the City Manager's monthly report to show how invested funds are performing. He added he did not know about the noise issues in the Beaches Town Center and hopes it is addressed.

Adjournment

There being no further business, Mayor Bylund adjourned the meeting at 6:49 p.m.

____
Corrine A. Bylund, Mayor

ATTEST:

____

Catherine Ponson, CMC
City Clerk

Approved: ____________________

******These minutes reflect the actions taken and portions of the discussion during the meeting. To review the entire discussion concerning any agenda item, please go to: https://www.nbfl.gov/minutes-and-agendas, and click on the video for the meeting in question.***

MINUTES
SPECIAL CITY COUNCIL MEETING
MONDAY, NOVEMBER 17, 2025, 6:00 P.M.
NEPTUNE BEACH CITY HALL
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice, a Special City Council Meeting of the City Council of the City of Neptune Beach was held Monday, November 17, 2025, at 6:00 p.m., at Neptune Beach City Hall, 116 First Street, Neptune Beach, Florida 32266.

	IN ATTENDANCE:	STAFF:
Attendance:	Mayor Cori Bylund	City Manager Richard Pike
	Vice Mayor Nia Livingston	City Attorney Paul Waters
	Councilor Tim Horvath	Chief of Police Michael Key
	Councilor Josh Messinger	Chief Financial Officer Jaime Hernandez
	Councilor Brent Rogers	Public Works Director Deryle Calhoun
		Community Development Director Heather Whitmore
		Project Manager Blake West
		City Clerk Catherine Ponson

Call to Order/Roll Call/Pledge — Mayor Bylund called the Special Meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

Swearing-In Ceremony — Mayor Bylund administered the Oath of Office to Officer Nicholas Vecchiarelli.

PUBLIC COMMENTS

Public Comments — Kendra Robertson, representing Beaches Town Center Agency, asked for better communication in regards to the parking program. She had asked for the new program to be implemented after the new year. She also requested the employee spots by City Hall be covered on holidays for the general public.

ITEMS FOR CONSIDERATION

Sewer Jetter — Purchase of Trailer-Mounted High-Pressure Sewer Jetter. Public Works Director Deryle Calhoun explained the existing sewer jet unit is 21 years old and parts are increasingly more difficult to acquire. The unit is used to jet smaller sewer lines, such as sewer laterals. Staff has identified a replacement unit of like capacity and a contract, approved by the City Attorney, to piggyback. A budget transfer to Sewer Machinery and Equipment from Sewer Improvements Not Buildings will be necessary.

Made by Messinger, seconded by Livingston.

MOTION: TO AWARD TO HARBEN, INC, IN THE AMOUNT OF $70,582.63 AND APPROVE THE BUDGET TRANSFER AS NOTED

Roll Call Vote:
Ayes: 5 - Horvath, Livingston, Messinger, Rogers and Bylund
Noes: 0

MOTION CARRIED

Bay and Davis Street Culvert Improvements

5th Street Stormwater Outfall Ditch – Bay and Davis Culvert Improvements Design. - *Deferred*

Lifeguard Station Change Order

Lifeguard Station Change Order. Project Manager Blake West explained that the original proposal for the lifeguard station roof was to coat the existing roof with Gaco Sealant. The proposed change order is for a new standing seam aluminum roof. This would be a better solution due to the condition of the roof. The change order total of $11,797.69 includes a credit of $3,287.43 for the cost of the Gaco and labor.

Council discussion included other roof options, future funding by the adjacent development and the City of Jacksonville and making the lifeguard station usable for the near future.

Made by Livingston, seconded by Rogers.

MOTION: **TO APPROVE THE LIFEGUARD STATION CHANGE ORDER**

Roll Call Vote:
Ayes: 5 - Livingston, Messinger, Rogers, Horvath and Bylund
Noes: 0

MOTION CARRIED

Adjournment

There being no further business, the Special Meeting adjourned at 6:28 p.m.

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Corrine A. Bylund, Mayor

ATTEST:

____
Catherine Ponson, CMC
City Clerk

Approved: ____________

MINUTES
WORKSHOP CITY COUNCIL MEETING
MONDAY, NOVEMBER 17, 2025, 6:28 P.M.
IMMEDIATELY FOLLOWING SPECIAL MEETING
NEPTUNE BEACH CITY HALL
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice, a Workshop City Council Meeting of the City Council of the City of Neptune Beach was held on Monday, November 17, 2025, at 6:28 p.m., in Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida, 32266

Attendance

IN ATTENDANCE:	STAFF:
Mayor Cori Bylund	City Manager Richard Pike
Vice Mayor Nia Livingston	City Attorney Paul Waters
Councilor Tim Horvath	Chief of Police Michael Key
Councilor Josh Messinger	Chief Financial Officer Jaime Hernandez
Councilor Brent Rogers	Public Works Director Deryle Calhoun
	Community Development Director Heather Whitmore
	Project Manager Blake West
	City Clerk Catherine Ponson

Call to Order/Roll Call

Mayor Bylund called the workshop meeting to order at 6:28 p.m.

ISSUE DEVELOPMENT

Lifeguard Station Mural

Lifeguard Station Mural. Project Manager Blake West stated that this was for the request for a mural for the lifeguard station. He had contacted local artist Caitlin Flynn Baita. She provided a quote of $2,400.00. The mural would be a geometric Lazure pattern.

Council discussion included location of the mural, other options for art in Neptune Beach and getting feedback from residents.

Public Hearing

Mayor Bylund opened the public hearing.

Shellie Thole, 310 Oleander Street, Neptune Beach, stated she had a friend who runs a charity who does art installations for mental health awareness throughout the City of Jacksonville.

Mayor Bylund closed the public hearing

Made by Messinger, seconded by Livingston.

<u>MOTION:</u> **<u>TO DIRECT THE CITY TO MOVE FORWARD WITH THE LIFEGUARD STATION MURAL BY CAITLIN FLYNN BAITA</u>**

Roll Call Vote:
Ayes: 5-Messinger, Rogers, Horvath, Livingston and Bylund
Noes: 0

<u>MOTION CARRIED</u>

Investment Plan

<u>Investment Plan.</u> Councilor Rogers stated that the City cannot participate in equity portfolios. The plan is more conservative and nothing is risky. He suggests agreeing on how to position the funds. At the next Finance Committee meeting, it could be worked on and then brought back to Council for approval at the December 1 Council meeting.

Discussion included managing the plan in-house, simplifying the plan, potential stress testing, risk tolerance and utilizing the Florida League of Cities resources.

Public Comment via Remote Access

<u>Public Comment via Remote Access.</u> Mayor Bylund reminded everyone that this is for discussion and not an action item.

Vice Mayor Livingston stated this issue was discussed at a previous meeting. Remote public comment was utilized during COVID. It is worth exploring and should be implemented.

Councilor Messinger expressed he had spoken with the City Attorney. There are municipalities in Florida that conduct hybrid meetings. The public would be on screen while commenting and follow normal rules of decorum. This would be a way to utilize technology and receive feedback from individuals who may not be able to attend the meeting. He is in favor of the public attending remotely.

Councilor Horvath commented that it would be good for the citizens. Mr. Waters answered Councilor's Horvath's inquiry that of their 14 clients, none of them allow it or disallow it. He stressed that once remote attendance for the public is started, you cannot stop it. The danger is violating someone's First Amendment right if it is turned off. He added that anyone from around the world can join in and be heard. You cannot limit free speech.

Councilor Rogers stated that it may be something the City might regret. He suggested starting it at the Town Hall meeting. He added that Neptune Beach is small and getting to City Hall is accessible.

Mayor Bylund expressed that public comment via remote attendance is a terrible idea. She reminded everyone that the genesis of this discussion was the proposed ordinance to change the attendance policy due to one councilmember who was appearing virtually. The virtual attendance was not that frequent. There is a difference between an elected official and the public at large. Opening the remote attendance to the public could be problematic. It could be a way for people far away to be abusive. There are emergency situations such as COVID where public comment was allowed. She stated that she does not think there should be a policy that prohibits it but we should not open the doors to making it a habit. Once we start it, it will be difficult to undo it. Our sister cities do not have public comment via remote attendance. It would also take away the flexibility for in-person public comment. She likes the current format where people can walk in late and still be heard. If we move forward with something, we need to be very careful.

Vice Mayor Livingston stated she wanted to see what ideas there were. No one is attending the town hall meetings anymore. She suggested submitting questions that could be read into the record and be addressed at the meeting. She also stated she had been receiving emails regarding remote attendance for the public.

City Attorney Paul Waters advised that all questions submitted would need to be addressed. He also stated that Council does not need to do anything right now as this is not a requirement.

Public Comment

Shellie Thole, 310 Oleander Street, Neptune Beach, that it might be worth a risk to give people the opportunity.

Council discussion included that the public can always contact Councilmembers regarding any issues.

COUNCIL COMMENTS

Council Comments

Mayor Bylund reported that Movies with the Mayor was held on Friday, November 14, 2025, and was a big success. The next Movies with the Mayor will be at Easter and the movie will be Peter Rabbit.

She attended the World Day of Remembrance for Road Traffic Victims on Saturday, November 15, 2025, at the City of Jacksonville. She reminded everyone to be careful on the road as the number of victims and fatalities is surprisingly high.

The next City Council meeting is on Monday, December 1, 2025.

Pete's 40th Thanksgiving Day Event will be held on Thursday, November 27, 2025. At 9:00 a.m., Mayor Bylund will be officially naming a portion of First Street, "Pete Jensen Way."

On Friday, December 5, 2025, the First Street Golf Cart Parade is scheduled followed by Christmas in the Park. On December 6, 2025, Beaches Town Center will have the Christmas Tree Lighting.

Vice Mayor Livingston requested the City's social media links be listed as some people are not aware that they exist.

Councilor Rogers commented that the current noise ordinance appears sufficient to preclude the activities that are being complained about. He added it is easy enough to enforce. There does not need to be any more legislation. He also asked about the use of City Hall parking spaces that was addressed by the speaker earlier.

Councilor Messinger stated that the issue has been discussed for years, which is the City opening up more spaces to the parking system versus reserving them during the day for City staff. There would be spaces made available at a lot further away for City staff.

Discussion continued regarding the noise complaints. Chief of Police Michael Key reminded everyone to call the Police Department if there is a problem.

Adjournment

There being no further business, the workshop meeting adjourned at 7:38 p.m.

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Corrine A. Bylund, Mayor

ATTEST:

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Catherine Ponson, CMC
City Clerk

Approved: ________________

MINUTES
TOWN HALL MEETING
IMMEDIATELY FOLLOWING THE WORKSHOP MEETING
MONDAY, NOVEMBER 17, 2025, 7:38 P.M.
NEPTUNE BEACH CITY HALL
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice, a Town Hall Meeting of the City Council of the City of Neptune Beach was held on Monday, November 17, 2025, at 7:38 p.m., at Neptune Beach City Hall, 116 First Street, Neptune Beach, Florida 32266.

Attendance:

IN ATTENDANCE:	STAFF:
Mayor Cori Bylund	City Manager Richard Pike
Vice Mayor Nia Livingston	City Attorney Paul Waters
Councilor Tim Horvath	Chief of Police Michael Key
Councilor Josh Messinger	Chief Financial Officer Jaime Hernandez
Councilor Brent Rogers	Public Works Director Deryle Calhoun
	Community Development Director Heather Whitmore
	Project Manager Blake West
	City Clerk Catherine Ponson

Call to Order/Roll Call/Pledge

Mayor Bylund called the Town Hall Meeting to order at 7:38 p.m.

Public Comments

Mayor Bylund opened public comments.

Shellie Thole, 310 Oleander Street, Neptune Beach, spoke regarding the noise ordinance. She asked about Code Enforcement. She is noticing more trailers and RVs in the yards and driveways of her neighbors. She also asked about the decorations at a house and the signs that have a QR code asking for donations.

City Attorney Paul Waters stated that there is a sign ordinance. He added that commercial speech is less restrictive.

Mayor Bylund stated that for the noise complaints, citizens should report it as well as the code violations.

Community Development Director Heather Whitmore commented that she had not received directive to begin proactive code enforcement regarding the boats and RVs. The department is currently complaint driven. If she receives the directive then we need to be ready to receive emails and phone calls.

Adjournment The Town Hall Meeting adjourned at 7:58 p.m.

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Corrine A. Bylund, Mayor

ATTEST:

____
Catherine Ponson, CMC
City Clerk

Approved: ___________

City Manager's Report

Departmental Recaps-11/25/2025

Police Department- Chief Michael Key ***(See Separate November 2025 Report)***

City Clerk-Catherine Ponson

- Fulfill ongoing public records requests
- Prepare Minutes and Council agenda packets
- Prepare public notices for all upcoming meetings
- Submit required notices for publication in Jacksonville Daily Record

Community Development-Heather Whitmore

1. **Public Meetings:**
   a. **City Council**
      i. **Dec 1, 2025**
         1. The Vertex Companies, LLC (VERTEX) Contract: City of Neptune Beach Life Safety and Fire Protection 3rd Party Plan Reviews and Inspections
2. **Current Projects**
   a. MyGov - Community Development Online Permitting and Electronic Records
   b. 5 Year ISO BCEGS Field Building Department Audit, Community Hazard Mitigation
   Underwriting
   c. Development Impact Fee Study
   d. Historic Preservation Board established – 6pm January 28, 2026
   e. Special Magistrate – 9am January 13, 2026
   f. Comp Plan Updates
      i. Property Right's Element
      ii. Infrastructure Element: Water Supply Facilities Work Plan
3. **Code Enforcement Priority Actions**
   a. 1401 Atlantic/Red Roof Inn - Expired BP/Unsafe/seeking demolition
   b. 2033 Oleander - Expired BP/Unsafe
   c. 533 Emma – Unsafe Pool
4. **Incoming Development**
   a. 1112 Third St – Office Building
   b. 626 Atlantic Blvd - Fifth Third Bank
   c. 1300 Atlantic Blvd - Seven Brew Coffee

5. **Services/Contracts**
    a. Community Development Online Permitting (2026 Debut)
    b. Community Development Online Electronic Records (2026 Debut)
6. **Monthly Revenue:**

October 1, 2025 to September 30, 2026	
Month	Cash Receipts
Oct-25	$52,675.35
Nov-25	$24,780.00
Totals	$77,455.35

Finance-Jaime Hernandez

1. **Key Initiatives & Updates**

- **Investment Plan:** Continue working to finalize the plan:
    - A draft was presented to the Finance Committee on November 25, 2025.
    - Final plan would be presented to the City Council on December 1, 2025, for resolution.
- **FMIvT Membership is in Progress:** Resolution to join the Florida Municipal Investment Trust was approved by Council.
- **Working with PRIME:** Developing short-term and daily liquidity investment options
- **ACH Conversion:** Accounts payable payments conversion from paper check to ACH is in progress. We have received about 35% of the forms from vendors. Effective date to switch from paper check to ACH is January 1, 2026.
- **AR/AP Automation Project:** Phase 1 implementation completed; Phase 2 (vendor portal) scheduled for Q1 2026.
- **Audit Preparation in Progress:** FY 2024–25 year-end closeout in progress; external audit kickoff with new auditing firm, James More, to be scheduled as soon Purvis Gray complete the FY 2023-24 audit.

2. Upcoming Priorities

- Prepare FY 2026-27 Budget Calendar and Guidelines
- Planification for ERP (TYLER) update, scheduled to take place in the fall of 2026.

<u>Human Resources-Jillian McCann</u>

- Human Resources is currently recruiting a GIS Architect to enhance our City's data management system and support the achievement of our strategic goals. Recruiting efforts will begin in early December to fill open positions at the Public Works Department.

- The department would like to take this opportunity to acknowledge the dedication and hard work of employees across all departments this year. Their commitment has ensured that the City's infrastructure was maintained, ensured safety, responded to emergencies, and implemented innovative solutions for fiscal responsibility. These employees have consistently gone above and beyond, often under challenging conditions. It is thanks to their outstanding efforts that we are not only keeping pace but thriving as a city.

<u>IT Department-Ricardo Pizarro</u>

Social Media:

- Preparing for 2026 Newsletter distribution
- Updating City Website to include Parks
- Developing city-wide branding

Hashtags

Hashtag	Post	Reach	Engagement
#AmericaRecyclesDay	1	6793	3.15%
#MarineCorps250	1	1829	9.73%
#Homecoming250	5	1213	7.79%
#Navy250	3	1016	6.98%

Post Summary

POSTS	REACH	REACTIONS	COMMENTS	SHARES	ENGAGEMENT
17	19900	220	24	45	6%
Change	57%	86%	82%	71%	18%

Infrastructure and Security:

- Current Projects: **MyGov, P1, T2, Genea, Camera Upgrades, Data Center Phase2, Fiber.**
- MyGov: Training end date December 4th with a go-live set for 1.1.26
- P1: Go-Live set for 1.1.26
- Fiber: Project to replace fiber at critical facilities.

Applications and Support:

- Migrated all existing systems from Windows 10
- Deploying new printers for field workers
- SOP in development for MyGov

Parks & Sustainability- Colin Moore

- State Appropriation Request for Bay Street Culvert Improvement Project submitted November 18
- Crosswalk for intersection of Fourth St and Seagate Ave scheduled for installation November 26
- Holiday decorations in Jarboe Park and Beaches Town Center installation completed prior to Thanksgiving
- Honorary Pete Jensen Way sign dedication, November 27 at 9:00am
- Senior Center roof is complete, exterior, interior, and HVAC duct repairs proceeding
- Lifeguard Station refresh projected finish in December
- Cleary Park landscape design installation scheduled for December
- Recreational and fitness equipment areas identified: improvements to fitness walk at Jarboe Park for Phase 2 of construction
- Penman Road Update from COJ consultant scheduled for January 20, 2026 regular Council Workshop

Public Works- Deryle Calhoun

(Updates in underline font)

Potable Water System

• Replacement Well 5 – Well 5 has been placed into service.

• Inspection of Wells 3 and 4 – These wells were constructed in the 1970s and should be video logged and inspected to identify any rehabilitation needs. Staff are working on a proposal with a well contractor.

• Water Tower – Initial meeting with engineer for design of lightening and grounding system. Cathodic protection will also be designed.

Wastewater System

• Redundant 3rd Street gravity pipeline – Construction of new pipeline was completed week of 9.22.25. Milling and paving was completed 10.27.25. Staff is working with a lining contractor for a quote to rehabilitate the junction manhole due to loss of wall thickness.

• Reconstruction of gravity sewer at 3rd and Florida – Reconstruction is complete and paving completed 11.19.25.

• Cave-in on existing pipe at 3rd and Florida – Council approved a change order for this work. Contractor excavated on 11.17.25 and discovered the pipe damage was caused by an abandoned jack and bore effort from roughly year 2000. The abandoned pipe did not permit correction of the sewer pipe misalignment. Pipe joints were secured and the excavation filled with flowable grout to prevent future cave-in.

Stormwater System

• Hopkins Creek improvements at Florida and Forest – COJ engineering consultant at 60% design in April. Due to pursuit of grant funding for Forest Avenue, construction most likely would begin in Summer 2027.
• Myra, Margaret and South stormwater improvements – Door hangers were distributed to affected residences. Contractor to begin initial utility location efforts week of 11.17.25.
• Town Center pump station – Design of new discharge point underway. Discussions regarding adding water main crossing of 3rd to the project for water system looping.
• Bay and Davis culvert improvements – Consultant working on design proposal.

Public Works

• Public Works roofing project – As of 11.20.25 the project is well underway.

Senior Center-Leslie Lyne

- YTD DONATIONS/FUNDRAISERS $10,353.73
- YTD Attendees-2,146 (duplicated persons participation)
- YTD Attendees-337 (unduplicated people)
- YTD Events Offered-343 to fill social, cultural, recreational, and physical needs
- Guests/Members scheduled fundraising tours to 2025-2026
  Costa Rica, Holland Belgium Tulip tour, Paris & Normandy tour; Christmas Markets of Europe, Black Hills & Badlands, National Parks, Italy, America's Music Cities, Hawaii, Norway, Machu Picchu Peru, Magical Rhine River Cruise, Christmas Market Montreal and Quebec, Northern Lights of Finland
- Military Appreciation Day, Thursday, November 20 all day-cake served
- Center closed Thursday & Friday, November 27-28, 2025
- Lunch & Learn Wednesday, December 10 @1p with Hearing Life
- City Christmas Luncheon in Neptune House, Wednesday, December 17
- Christmas Drop in Social-refreshments, Thursday, December 18, 1:30p-3pm

- Christmas Community concert in St. Augustine Basilica schedule Sunday, December 21, 2025; charter bus & concert tickets-sold out
- Center closed December 24, 2025-January 1, 2026
- Fall Prevention Balance & Beyond Workshop January 27, 2026
- Travel Presentation fundraiser scheduled January 21, 2026
- February 13, 2026, annual Valentine Day’s Tea
- March 10, 2026, Broadway in Jacksonville “Moulin Rouge”

Building Activity October 1, 2025 to September 30, 2026					
Oct-25	113	131	179	$40,967.30	$1,665,768
Nov-25	94	87	118	$24,780.00	$1,458,917
Dec-25					
Jan-26					
Feb-26					
Mar-26					
Apr-26					
May-26					
Jun-26					
Jul-26					
Aug-26					
Sep-26					
Totals	207	218	297	$65,747.30	$3,124,685
Totals	301	305	415	$90,527.30	$4,583,602

Building Activity October 1, 2024 to September 30, 2025					
Month	# of Permits Issued	Plan Review	Inspections Completed	Cash Receipts	Valuation of Work Done
Oct-24	97	54	202	$22,747.07	$1,815,941
Nov-24	72	53	160	$22,912.39	$2,166,100
Dec-24					
Jan-25					
Feb-25					
Mar-25					
Apr-25					
May-25					
Jun-25					
Jul-25					
Aug-25					
Sep-25					
Totals	169	107	362	$45,659.46	$3,982,041
Difference	132	198	53	$ 44,868	$ 601,561
%	78%	185%	15%	98%	15%

Agenda Item #6A
Res. No. 2025-22
Join FMIvT

CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT

AGENDA ITEM:	Request for Consideration-Approval of Membership in the Florida Municipal Investment Trust (FMIvT) for the purpose of diversifying and managing City's surplus funds.
SUBMITTED BY:	Jaime F Hernandez, Chief Financial Officer
DATE:	October 29, 2025
BACKGROUND:	The Finance Department is requesting City Council approval to join the **Florida Municipal Investment Trust (FMIvT)**, a professionally managed investment program sponsored by the **Florida League of Cities**. The Trust offers a range of investment portfolios tailored to the needs of Florida's local governments, including short-term liquidity funds and longer-term fixed income strategies. 1. As per Resolution 2025-12, The City Council of Neptune Beach, authorized and instructed the Chief Financial Officer to invest surplus funds in accordance with the City investment policy. 2. The Florida Municipal Investment Trust is an authorized investment under Section 218.415 Fla. Stat., for units of local government in Florida. 3. FMIvT requires adoption of resolution authorizing participat
BUDGET:	There is no cost to join the trust. Investment management fees are netted from earnings and vary by portfolio from typically 10-25 basis points.
RECOMMENDATION:	Staff recommends that the City Council approve the resolution authorizing the City of Neptune Beach to join the Florida Municipal Investment Trust and authorize the Chief Financial Officer to execute all necessary documents.
ATTACHMENT:	Resolution Authorizing Participation in FMIvT

RESOLUTION NO. 2025-22

A RESOLUTION OF THE CITY OF NEPTUNE BEACH, FLORIDA, AUTHORIZING TO JOIN WITH OTHER LOCAL GOVERNMENTAL UNITS AS A PARTICIPANT IN THE FLORIDA MUNICIPAL INVESTMENT TRUST (FMIvT) FOR THE PURPOSE OF PURCHASING SHARES OF BENEFICIAL INTEREST IN THE TRUST

WHEREAS, Sec. 163.01, Fla. Stat., authorizes the state, or any county, municipality or political subdivision of the state, to jointly exercise any power, privilege, or authority which such governmental entities share in common and which each might exercise separately, and further provides such authority is in addition to and not in limitation of those granted by any other general, local, or special law; and

WHEREAS, by Resolutions dated the 27th day of January, 1993, the 25th day of January, 1993, and the 14th day of January, 1993, the governing bodies of the City of Bradenton, Florida, the City of Lauderhill, Florida, and the City of Palatka, Florida, respectively, found the creation of the Florida Municipal Investment Trust serves a municipal purpose and will offer diversified and professionally managed portfolios for the investment of the assets of participating municipalities and other agencies or political subdivisions in or of the state; and

WHEREAS, the authorized representatives for the City of Bradenton, Florida, the City of Lauderhill, Florida, and the City of Palatka, Florida, have executed the Agreement and Declaration of Trust on the 28th day of April 1993, creating the Florida Municipal Investment Trust which governs the purpose, administration and operation of the Trust and its activities; and

WHEREAS, the constitutional, statutory and judicial authorities in the State of Florida authorize municipalities and other agencies or political subdivisions in or of the state to join with other municipalities and other agencies or political subdivisions in or of the state for the purpose of investing and reinvesting surplus public funds; and

WHEREAS, under the terms and provisions of the Agreement and Declaration of Trust creating the Florida Municipal Investment Trust any municipality and any other agency or political subdivision in or of the state desiring to participate in the Trust as a member must become a party to the Agreement and Declaration of Trust; and

WHEREAS, the Florida Municipal Investment Trust is an authorized investment under Section 218.415, Fla. Stat., for units of local government in Florida.

WHEREAS, it is the intent of this Governmental Unit to participate in the Florida Municipal Investment Trust as a member and become a party to the Agreement and Declaration of Trust.

THEREFORE, BE IT RESOLVED by the City of Neptune Beach City Council as follows:

SECTION 1. The City Council finds that participation in the Florida Municipal Investment Trust, a pooled-investment program, would be in the best interest of the City of Neptune Beach, its officials, officers, and citizens in that such a program offers diversified and professionally managed portfolios to meet investment needs, results in economies of scale that will create greater purchasing powers and will thereby lower the cost traditionally associated with the investment of assets of the City of Neptune Beach.

SECTION 2. The City of Neptune Beach hereby expressly authorizes participation in the Florida Municipal Investment Trust as a member and will become a party to the Agreement and Declaration of Trust, as amended, which is adopted by reference with the same effect as if it had been set out verbatim in this section.

SECTION 3. The City of Neptune Beach is hereby expressly authorized to purchase shares of beneficial interest in the Trust from time to time with available funds, and to redeem some or all of its shares of beneficial interest from time to time as funds are needed for other purposes, subject to the terms and restrictions of the Agreement and Declaration of Trust referred to in Section 2 and the most recent Informational Statement. These actions are to be taken by the officers designated for this purpose pursuant to general or specific instructions by the governing body of the City of Neptune Beach.

SECTION 4. The Trustees of the Trust are designated as having official custody of this Governmental Unit's funds which are invested by purchasing shares of beneficial interest in the Trust.

SECTION 5. This Governmental Unit specifically finds and determines the following matters:

(a) The conditions of the agreement and the rights and responsibilities of members of the Trust are set forth in the Agreement and Declaration of Trust, as amended and in the most recent Informational Statement;

(b) Participation in the Trust shall be terminable at any time by this Governmental Unit, subject to the terms and restrictions of the Agreement and Declaration of Trust, as amended and the most recent Informational Statement;

(c) The Agreement and Declaration of Trust, as amended, and the purchase of its shares of beneficial interest are for the purpose of investing this Governmental Unit's funds as part of a pooled-investment program with other agencies or political subdivisions in or of the state, thereby achieving economic and other advantage of pooled investments, and the powers and scope of authority delegated are set forth in the Agreement and Declaration of Trust, as amended;

(d) it is not necessary to finance the agreement authorized herein from funds of this Governmental Unit, except through the purchase of shares of beneficial interest in the Trust;

(e) the Trust shall be managed by a Board of Trustees as set forth in the Agreement and Declaration of Trust, as amended; and (f) the Board of Trustees of the Florida Municipal Investment Trust has provided for general disclosure policies of the Trust's operations and Informational Statements for the benefit of members and prospective members of the Trust so that members and prospective members are fully aware of significant investment and administrative policies, practices and restrictions of the investment portfolios of the Trust.

SECTION 6. The City of Neptune Beach designates and authorizes the Chief Financial Officer to execute such applications and other documents as are required to invest and reinvest surplus funds of the City of Neptune Beach in shares of beneficial interest of the Trust's investment portfolios.

SECTION 7. The clerk of this Governmental Unit is hereby directed to furnish a certified copy of this Resolution to the Florida League of Cities.

SECTION 8. This Resolution shall take effect immediately upon its adoption.

Done and adopted by the City Council of Neptune Beach, Florida, at the Regular Council Meeting held this ____day of _____. 2025.

____

Corrine A. Bylund, Mayor

ATTEST:

____

Catherine Ponson, City Clerk

Approved as to Form and Content:

____

Paul Waters, City Attorney

SPONSORED BY:
MAYOR CORRINE BYLUND

Agenda Item #6B
Res. No. 2025-27
Live Local Property Tax Exemption

CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT

AGENDA ITEMS:	Resolution 2025-27: Live Local Ad Valorem Tax Exemption
SUBMITTED BY:	Paul Waters, City Attorney
DATE:	December 1, 2025
BACKGROUND:	Beginning with the 2025 tax roll, §196.1978(3)(o), Fla. Stat., allows taxing authorities to "opt-out" of providing the Live Local Act Property Tax Exemption for units in multifamily projects used to house natural persons or families whose annual household income is between 80% and 120% of the median annual adjusted gross income for households within the metropolitan statistical area ("MSA"), or, if not within an MSA, within the county in which the person or family resides (the "80 to 120 Tax Exemption"), if the taxing authority finds that the latest Shimberg Center for Housing Studies Annual Report, prepared pursuant to §420.6075, Fla. Stat. ("Shimberg Annual Report"), identifies that the number of affordable and available units in the MSA or region is greater than the number of rental households in the MSA or region for natural persons or families who meet the income criteria. Due to the Federal Government Shutdown occurring in late 2025, the compilation, review, and release of the 2025 Shimberg Annual Report has been delayed and is not expected to be available until later in December 2025. I order to ensure compliance with statutory deadlines and to preserve Neptune Beach's ability to opt-out in the event the forthcoming Shimberg Annual Report shows that Neptune Beach is eligible, the City Commission desires to adopt this Resolution conditionally, to become effective only if the Report supports the statutory findings required by §196.1978(3)(o), Fla. Stat.
RECOMMENDATION:	Adoption of Resolution No. 2025-27
ATTACHMENTS:	1. Draft Resolution No. 2025-27 2. LLA Analysis from Florida Housing

INTRODUCED BY:
MAYOR CORRINE BYLUND

RESOLUTION NO. 2025-27

A RESOLUTION OF THE CITY OF NEPTUNE BEACH, DUVAL COUNTY, FLORIDA, PURSUANT TO SECTION 196.1978(3)(O), FLA. STAT., ELECTING TO NOT EXEMPT PROPERTY FROM AD VALOREM PROPERTY TAX UNDER SECTION 196.1978(3)(D)1.A., FLA. STAT., COMMONLY KNOWN AS THE "LIVE LOCAL ACT PROPERTY TAX EXEMPTION"; PROVIDING FOR INCORPORATION OF RECITALS, REQUIRED FINDINGS, DIRECTION TO THE MAYOR, DIRECTION TO THE CITY MANAGER, APPLICABILITY, SEVERABILITY, AND A CONDITIONAL EFFECTIVE DATE.

WHEREAS, Section 196.1978(3), Florida Statutes (the "Live Local Act Property Tax Exemption") requires the Duval County Property Appraiser to exempt certain rental properties from ad valorem taxes if such properties meet the statutory criteria; and

WHEREAS, beginning with the 2025 tax roll, §196.1978(3)(o), Fla. Stat., allows taxing authorities to "opt-out" of providing the Live Local Act Property Tax Exemption for units in multifamily projects used to house natural persons or families whose annual household income is between 80% and 120% of the median annual adjusted gross income for households within the metropolitan statistical area ("MSA"), or, if not within an MSA, within the county in which the person or family resides (the "80 to 120 Tax Exemption"), if the taxing authority finds that the latest Shimberg Center for Housing Studies Annual Report, prepared pursuant to §420.6075, Fla. Stat. ("Shimberg Annual Report"), identifies that the number of affordable and available units in the MSA or region is greater than the number of rental households in the MSA or region for natural persons or families who meet the income criteria; and

WHEREAS, the City of Neptune Beach relies upon the annual Shimberg Annual Report to determine whether it is eligible to exercise the opt-out authority set forth in §196.1978(3)(o), Fla. Stat.; and

WHEREAS, due to the Federal Government Shutdown occurring in late 2025, the compilation, review, and release of the 2025 Shimberg Annual Report has been delayed and is not expected to be available until later in December 2025; and

WHEREAS, because the Report is not yet available, Neptune Beach cannot presently determine whether it is eligible to opt-out of the Live Local Act Property Tax Exemption; and

WHEREAS, in order to ensure compliance with statutory deadlines and to preserve Neptune Beach's ability to opt-out in the event the forthcoming Shimberg Annual Report shows that Neptune Beach is eligible, the City Council desires to adopt this Resolution conditionally, to become effective only if the Report supports the statutory findings required by §196.1978(3)(o), Fla. Stat.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA:

SECTION 1. The foregoing findings are true and correct and are hereby adopted and made a part hereof.

SECTION 2. OPT-OUT ELECTION; REQUIRED FINDINGS. The City Commission hereby states its intent to elect not to exempt properties eligible for the 80 to 120 Tax Exemption pursuant to §196.1978(3)(o), Fla. Stat., but only if and upon the condition that the 2025 Shimberg Annual Report, upon its release, demonstrates that the City of Neptune Beach is eligible under Florida law to make such an election. If eligibility is confirmed by the findings of the Report, Neptune Beach hereby requests that the Duval County Property Appraiser not grant any such exemptions for the 2025 tax roll.

SECTION 3. DIRECTION TO THE MAYOR. The Mayor, or in the Mayor's absence the Vice Mayor, is authorized to execute this Resolution only upon the publication or release of the 2025 Shimberg Annual Report confirming Neptune Beach' eligibility to opt-out pursuant to Section Two of this Resolution.

SECTION 4. DIRECTION TO CITY MANAGER. Upon confirmation of eligibility, the City Manager is directed to provide an executed copy of this Resolution to the Duval County Property Appraiser prior to the statutory deadline.

SECTION 5. APPLICABILITY. This Resolution applies solely to ad valorem property tax levies imposed by the City of Neptune Beach.

SECTION SIX. SEVERABILITY. If any provision of this Resolution is held invalid by a court of competent jurisdiction, or if any portion becomes preempted by state law, the affected provision shall be deemed stricken and the remainder shall continue in full force and effect.

SECTION SEVEN. CONDITIONAL EFFECTIVE DATE. This Resolution shall only take effect if, and upon the date that, the 2025 Shimberg Annual Report establishes that Neptune Beach is eligible under §196.1978(3)(o), Fla. Stat., to elect not to provide the Live Local Act Property Tax Exemption. If the Report does not establish eligibility, this Resolution shall be null and void without further action of the City Commission.

This Resolution adopted by the City Council of Neptune Beach, Florida, at the Regular City Council Meeting held on this _____ day of _____________, 2025.

____
Corrine Bylund, Mayor

ATTEST:

____
Catherine Ponson, City Clerk

Approved as to Form and Content:

____
Paul Waters, City Attorney

Overview of the Live Local Act

Updated May 1, 2025

Contact: Kody Glazer, Chief Legal and Policy Officer, glazer@flhousing.org

Ryan McKinless, Policy Analyst, mckinless@flhousing.org

The Live Local Act was a generational retooling of state housing policy in Florida. Not only did the Act fully fund and further supplement our state's core Sadowski affordable housing subsidy programs in SHIP and SAIL, but it also contained a variety of tax incentives, land use policies, publicly owned land tools, and other strategic initiatives that are designed to produce affordable housing. Given that the Act has provided such a broad range of new statewide housing policies and resources, it is important that there is a general understanding of how the Act's provisions may be interpreted and differentiated. For example, what exactly does it mean when referring to a "Live Local Act deal"? This lack of clarity can cause confusion among stakeholders and the public when making key decisions. To serve as a resource for our state's housing ecosystem, or for those who are generally interested in the potential impacts of the Act, this document provides an overview of the Act's provisions as currently codified following the passing of amendments to the Act in 2024 and 2025.

Contents

Property Tax Exemptions in the Live Local Act

1. Multifamily Middle Market ("Missing Middle") Property Tax Exemption - new s. 196.1978(3), Florida Statutes.

The "Missing Middle" property tax exemption, also called the Multifamily Middle Market exemption, is a new ad valorem property tax exemption provided by the Act.

Newly constructed multifamily developments with more than 70 affordable units for households up to 120 percent Area Median Income (AMI) are eligible to receive property tax exemptions for the affordable units provided. Units within eligible developments that serve households from 80-120 percent AMI receive a 75 percent property tax exemption and units that serve households below 80 percent AMI receive a 100 percent property tax exemption. Those units receiving the exemption are subject to the rent limits specified in the most recent multifamily rental programs income and rent limit chart posted by the Florida Housing Finance Corporation (FHFC) and derived from the Multifamily Tax Subsidy Projects Income Limits published by the U.S. Department of Housing and Urban Development, or 90 percent of the fair market value as determined by a rental market study meeting the requirements of s. 196.1978(3), whichever is less.

Units that are subject to an agreement with FHFC pursuant to Chapter 420, F.S. recorded in the official records of the county in which the property is located to provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004 are not eligible for this exemption. Properties receiving a county and municipal affordable housing property tax exemption pursuant to s. 196.1979 are also not eligible.

There is a two-step process for property owners to receive this exemption. First, property owners must apply for and receive a "certification notice" from FHFC certifying that the property is eligible for the exemption. FHFC is responsible for creating and overseeing the application process to provide such notices based on guidance in the Live Local Act. Second, if the property owner receives this "certification notice", they must then apply to their local property appraiser for a formal exemption. This is the point at which duties shift from FHFC to the local property appraiser. The exemption will need to be renewed each year per the local property appraiser's typical process for renewing property tax exemptions and the property owner must swear, under penalty of perjury, that the property will be affordable for at least 3 years after receiving the exemption.

Option for Taxing Authorities to Opt-Out from Allowing the "Missing Middle" Property Tax Exemption:

Passed as part of the 2024 Legislative Session's tax package (House Bill 7073), this amendment to the Live Local Act allows taxing authorities to opt-out from providing the 75 percent "Missing Middle" property tax exemption in their jurisdiction to those units that fall within the 80-120 percent AMI affordability threshold.

The eligibility of taxing authorities to utilize the opt-out is contingent upon certain requirements. To be eligible, the taxing authority must be located in a county in which the number of affordable and available units for households at or below 120 percent AMI is greater than the number of households at that income level, as determined by the most recent Shimberg Center for Housing Studies Annual Report. For clarification, the Annual Report is a separate publication from the Shimberg Center for Housing Studies' Rental Market Study which is published every three years.

If the taxing authority is eligible to opt-out according to the most recently published Shimberg Center for Housing Studies Annual Report, the taxing authority must follow certain procedural requirements to enable the opt-out. Specifically, the taxing authority must adopt an ordinance or resolution to opt out from providing the property tax exemption, as approved by a two-thirds majority vote of the local governing body. This ordinance or resolution must then be renewed annually by January 1 in order to maintain their opt-out status for this property tax exemption.

Note that a property owner of a multifamily project who was granted an exemption prior to the adoption of an ordinance or resolution by the taxing authority to opt-out may continue to receive the exemption for each subsequent consecutive year that the property owner applies for and is granted the exemption.

2. Nonprofit Land w/a 99-Year Ground Lease Exemption – new s. 196.1978(1)(b), Florida Statutes

With this new exemption, land owned entirely by a 501(c)(3) organization that is leased for a minimum of 99 years for the purpose of, and is predominantly used for, providing affordable housing to households at or below 120 percent AMI is exempt from property taxes. Land is "predominantly used" for affordable housing if greater than 50 percent of the square footage of the improvements are used to provide affordable housing. Note that only the land is exempt from property taxes with this exemption.

3. Local Option Property Tax Exemption – new s. 196.1979, Florida Statutes

Section 9 of the Live Local Act granted cities and counties a new tool to encourage the development of affordable housing. At the newly created s. 196.1979 of the Florida Statutes, Florida's local governments now have the discretion to provide ad valorem tax exemptions to developments with 50 or more units that set aside at least 20 percent of its units as affordable housing to households making 60 percent or below AMI. The statute provides the process by which local governments can enact this new local option.

4. 99-Year Affordability Property Tax Exemption for FHFC-Funded Properties – new s. 196.1978(4), Florida Statutes

Created by House Bill 7073 (2024), this new property tax exemption allows for a 100 percent exemption for portions of eligible properties used to provide affordable housing, beginning with the January 1 assessment immediately succeeding the date the property was placed into service. To be eligible for this property tax exemption, a multifamily project must be composed of an improvement to land where an improvement did not previously exist or the construction of a new improvement where an old improvement was removed, which was substantially completed within 2 years before the first submission of an application for exemption under this subsection. The property must also contain more than 70 units that are affordable to households at or below 80 percent AMI.

In addition to these requirements, to be eligible to receive the exemption, the property must also be subject to a land use restriction agreement with the Florida Housing Finance Corporation (FHFC) recorded in the official records of the county in which the property is located that requires that the property be used for 99 years to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, low-income, or moderate income limits specified in s. 420.0004. This agreement must also include a provision for a penalty for ceasing to provide affordable housing under the agreement before the end of the agreement term that is equal to 100 percent of the total amount financed by FHFC multiplied by each year remaining in the agreement.

Also note that if the property ceases to serve extremely-low-income, very-low-income, or low-income persons pursuant to the recorded agreement, the property will no longer be eligible for the exemption. Properties that receive the Local Option Property Tax Exemption pursuant to s. 196.1979 are also ineligible for this exemption. This property tax exemption first applies to the 2026 tax roll.

The Live Local Act's Land Use Mandate

The Live Local Act introduced state-mandated land use entitlements for eligible affordable housing developments in areas zoned for commercial, industrial, and mixed-use. To be eligible for these entitlements, a proposed project must set aside at least 40 percent of its residential units as affordable rental units to income-eligible households (at or below 120 percent AMI) for a period of at least 30 years. For proposed developments meeting these eligibility criteria, Florida cities and counties are required to allow multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed-use and are also subject to statutory parameters regarding density, height, floor area ratio, administrative approval, and certain parking standards.

In practice, the Act's land use provisions preempt cities and counties from requiring that a proposed development meeting those above-referenced eligibility requirements obtain a zoning or land use change, special exception, conditional use approval, variance, transfer of density or development units, amendment to a development of regional impact, or comprehensive plan amendment for use, density, height, floor area ratio requirements, and parking requirements in limited circumstances.

As of May 2025, the following land use entitlements are provided in the Live Local Act's land use mandate for eligible affordable housing developments in commercial, industrial, and mixed-use areas*:

*Provisions shown with an asterisk take effect on July 1, 2025.

- Use:
    - Multifamily or mixed-use with multifamily allowance in commercial, industrial, or mixed-use zones without zoning or land use change. Mixed-use developments must devote at least 65 percent of the square footage for

residential purposes. Local governments cannot require that more than 10 percent of the total square footage of a proposed mixed-use development be used for nonresidential purposes. *
    - A 2025 amendment clarifies that the land use mandate applies to portions of "any flexibly zoned area such as a planned unit development permitted for commercial, industrial, or mixed use." This clarification addresses the "PUD issue" of the Live Local Act and makes it clear that land zoned for commercial, industrial, or mixed use within a Planned Unit Development are eligible for the land use mandate.
- Density:
    - Highest currently allowed, or allowed on July 1, 2023, density on any land in City or County where residential development is allowed. For example, if the highest density allowance in a City for a residential development is 80 units/acre, a Live Local project would entitled to build up to 80 units/acre.
- Height:
    - Highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential development within 1 mile of the proposed development or 3 stories, whichever is higher.
    - Exception: if a development proposal is adjacent to, on two or more sides, a single-family-zoned property within a single-family-zoned residential development with at least 25 contiguous single-family homes, a local government may limit the height of the development proposal to the highest of the following:
        - 150 percent of the tallest building adjacent to the proposed development;
        - The highest currently allowed height for the property based on land development regulations; or
        - 3 stories.
        - Development proposals subject to this exception may not exceed 10 stories. *
    - Exception: if a development proposal is on a parcel with a structure or building listed in the National Register of Historic Places, the local government may limit the height of a development proposal to the highest of the following*:
        - The highest currently allowed height, or allowed on July 1, 2023, for a commercial or residential structure within ¾ mile; or

        - 3 stories.
    - For development proposals within a municipality within an area of critical state concern, the term "story" for purposes of determining allowable height only includes the habitable space above the base flood elevation as designated by the Federal Emergency Management Agency in the most current Flood Insurance Rate Map. *
- Parking:
    - Local governments must reduce parking requirements by 15 percent for eligible proposed projects located 1) within ¼ mile of a transit stop, as defined by the jurisdiction's land development code, and the transit stop is accessible to the development; 2) is located within ½ mile of a major transportation hub; or 3) has available parking within 600 feet of the proposed development *
    - Local governments are required to eliminate parking requirements for eligible proposed projects that are within a Transit-Oriented Development (TOD) or area.
- Floor area ratio (FAR):
    - Local governments are prohibited from limiting the FAR below 150 percent of the highest currently allowed, or allowed on July 1, 2023, FAR in the jurisdiction where development is allowed under the jurisdiction's land development regulations. Floor area ratio includes floor lot ratio and lot coverage.
- Administrative approval:
    - A development proposal must be administratively approved if the proposal satisfies the land development regulations and is otherwise consistent with the comprehensive plan excepting density, FAR, height, and use.
    - Local governments are required to maintain administrative approval procedures publicly on their website.
- Calculating entitlements:
    - Bonus entitlements are not to be included in the maximum height, density, or FAR.
    - Density, height, and floor area ratio allowances cannot be lower than the highest allowed entitlements as of July 1, 2023. *
    - For development proposals that are adjacent to, on two or more sides, a single-family community with at least 25 contiguous single-family homes, the project cannot exceed 10 stories. *

- Non-conforming use:
  - Projects that remain affordable will be considered conforming uses, beyond the 2033 statutory sunset. If a project violates the affordability requirements, it will be deemed a non-conforming use.
- Civil actions *:
  - If a civil action is filed against a local government for violating the land use mandate, the court shall expedite proceedings and render a decision as "expeditiously as possible." The court must also "assess and award reasonable attorney fees and costs to the prevailing party. An award of reasonable attorney fees or costs . . . may not exceed $250,000. In addition, a prevailing party may not recover any attorney fees or costs directly incurred by or associated with litigation to determine an award of reasonable attorney fees or costs."

- Building moratoria *:
  - SB 1730 (2025) prohibited local building moratoria that has the effect of delaying the permitting or construction of a proposed development unless:
    - The moratorium lasts no more than 90 days in any 3-year period after a local assessment of the jurisdiction's need for affordable housing.
    - The moratorium is imposed or enforced to address stormwater or flood water management, to address the supply of potable water, or due to the necessary repair of sanitary sewer systems, if such moratoria apply equally to all types of multifamily or mixed-use residential development.
- Local government reporting *:
  - Beginning on November 1, 2026, every local government is required to provide an annual report to the state land planning agency that includes the following:
    - A summary of litigation relating to the land use mandate that was initiated, remains pending, or was resolved during the previous fiscal year; and
    - A list of all land use projects proposed or approved during the previous fiscal year including, at minimum, the project's size, density, intensity, and total number of units (including the number of affordable units and associated targeted housing incomes).

    - The state land planning agency is required to compile these local reports and submit to the Governor, Senate President, and Speaker of the House annually by February 1.
- Pending applications *:
    - An entity that has already submitted an application, a written request, or notice of intent to seek development approval under s. 125.01055(7) or s. 166.04151(7) may notify the jurisdiction of its intent to use the provisions as they existed at the time of submittal.
    - Local governments must allow an applicant that has already submitted an application, a written request, or notice of intent to seek development approval to submit a revised application.
- Other notable provisions:
    - Exceptions for properties defined as recreational and commercial working waterfront in any area zoned industrial.
    - Exceptions for properties within the Wekiva Study Area, as described in s. 369.316. *
    - Exceptions for properties within the Everglades Protection Area, as defined in s. 373.4592(2). *
    - Exceptions for areas in close proximity to an airport in any "airport-impacted areas," as provided in s. 333.03.
    - A proposed development located within ¼ mile of a military installation may not be administratively approved. Each local government is required to maintain on its website a policy containing procedures and expectations for administrative approval.
    - Except for standards regarding use, density, height, FAR, parking, and administrative approval, all other state and local laws still apply.

Funding Commitments in the Live Local Act

Florida Hometown Heroes Program – s. 420.5096, Florida Statutes

Administered by the Florida Housing Finance Corporation (FHFC), the Florida Hometown Heroes Program is an affordable homeownership program that provides down payment and closing cost assistance to first-time homebuyers who meet certain eligibility requirements pertaining to income qualification and employment.

To be eligible for the Hometown Heroes Program, in addition to being a first-time homebuyer, an applicant must be employed full-time (35 hours or more per week) by a Florida-based employer. An applicant's household income may not exceed 150 percent of the state median income or local median income, whichever is higher.

The Hometown Heroes Program allows eligible borrowers to secure interest-free loans from FHFC to reduce down payment and closing costs by a minimum of $10,000 and up to 5 percent of the first mortgage loan, not to exceed $35,000. The balance of any loan made through the Hometown Heroes Program is due at closing if the property is sold, refinanced, rented, or transferred, unless otherwise approved by FHFC. These loan repayments are to be retained within the Hometown Heroes Program to make additional loans, allowing the Program to continue as an intended "evergreen" resource.

Loan made under the Hometown Heroes Program may also be used for the purchase of manufactured homes as defined in s. 320.01(2)(b) that were constructed after July 13, 1994, are permanently affixed to real property in this state, whether owned or leased by the borrower, and are titled and financed as tangible personal property or as real property.

"Innovative" SAIL Funding Initiatives – s. 420.50871, Florida Statutes

The Live Local Act also dedicated a new stream of recurring SAIL funding to be administered by FHFC for certain affordable housing purposes as provided in the newly created s. 420.50871. Starting with fiscal year 2023-2024, and for 10 years thereafter, an expected total of $150 million per year, or $1.5 billion over 10 years, in SAIL funds resulting from increased revenues to the State Housing Trust Fund will be awarded by FHFC through their competitive Request for Applications (RFA) process. These funds are expected to be allocated evenly over the ten-year period, amounting to $150 million per year that will be prioritized by FHFC according to the following splits as provided in s. 420.50871.

- 70 percent of these SAIL funds are to be dedicated to finance projects that:
    - Both redevelop an existing affordable housing development and provide for the construction of a new development within close proximity to the existing development to be rehabilitated. Each project must provide for building the new affordable housing development first, relocating the tenants of the existing development to the new development, and then demolishing the existing development for reconstruction of an affordable housing development with more overall and affordable units.
    - Address urban infill, including conversions of vacant, dilapidated, or functionally obsolete buildings or the use of underused commercial property.

- Provide for mixed use of the location, incorporating nonresidential uses, such as retail, office, institutional, or other appropriate commercial or nonresidential uses.
- Provide housing near military installations in this state, with preference given to projects that incorporate critical services for servicemembers, their families, and veterans, such as mental health treatment services, employment services, and assistance with transition from active-duty service to civilian life.

- The remaining 30 percent of these SAIL funds are to be dedicated to projects that serve any of the following purposes:
  - Propose using or leasing public lands. Projects that propose to use or lease public lands must include a resolution or other agreement with the unit of government owning the land to use the land for affordable housing purposes.
  - Address the needs of young adults who age out of the foster care system.
  - Meet the needs of elderly persons.
  - Provide housing to meet the needs in areas of rural opportunity, designated pursuant to s. 288.0656.

Starting with the 2023 RFA cycle and continuing forward until 2033, FHFC has been workshopping and posting new RFAs to award these additional SAIL funds for proposed projects that fulfill these above-referenced innovative housing approaches. Reference the FHFC website for more information on the specific requirements of these RFAs.

Live Local Tax Donation Program – s. 420.50872, Florida Statutes

The Live Local Act created a new tax donation program to allow taxpayers to direct payments to FHFC for use as SAIL funds in exchange for tax credits against corporate or insurance premium tax liability. Tax donations collected through this program are to be capped at a maximum amount of $100 million for each state fiscal year. 100 percent of eligible contributions received through this tax donation program must be directed to the SAIL program. Up to $25 million of the tax donations received for a state fiscal year may be used to provide SAIL loans for the construction of large-scale projects of significant regional impact as provided in s. 420.50872.

Changes to the Florida Job Growth Grant Fund – s. 288.101, Florida Statutes

Administered by the Florida Department of Commerce (Commerce), the Florida Job Growth Grant Fund is an economic development program that exists to improve public infrastructure and enhance workforce training. Commerce reviews submitted proposals for state or local public infrastructure projects made by public entities that promote economic recovery in specific regions of the state, economic diversification, or economic enhancement in a targeted industry. Commerce then makes funding recommendations to the Governor for approval.

The Florida Job Growth Grant Fund was expanded by the Live Local Act to make eligible proposals for state or local public infrastructure projects that facilitate the development or construction of affordable housing. This provision will sunset July 1, 2033. These funds may not be used for the exclusive benefit of any single company, corporation, or business entity. In other words, affordable housing developers do not apply directly for these funds; a public entity would apply for funding and then the funding can only incidentally benefit specific developers.

Using Publicly Owned Land for Affordable Housing – ss. 125.379 & 166.0451

The Live Local Act updated and reinforced state laws pertaining to the use of publicly owned land for affordable housing. Also known as Florida's "surplus land laws," all Florida cities and counties are required to identify publicly owned lands that are "appropriate for affordable housing" to be placed on an affordable housing land inventory list. The Live Local Act extended these requirements to also apply to dependent special districts and also requires that local governments make the inventory list publicly available on its website to encourage development. The Act provided an additional clarification that land placed on these inventories can be used for affordable housing "through a long-term land lease," while also outlining several best practices that local governments may adopt for their surplus land programs, such as:

- Establishing eligibility criteria for the receipt or purchase of surplus land by developers;
- Making the process for requesting surplus lands publicly available; and
- Ensuring long-term affordability through ground leases by retaining the right of first refusal to purchase property that would be sold or offered at market rate and by requiring reversion of property not used for affordable housing within a certain timeframe.

In addition to these codified requirements and best practices, the Florida Housing Coalition has also recommended best practices related to public land disposition for affordable housing purposes by local governments. Because local governments have discretion as to what makes a parcel of public land "appropriate" for affordable housing development as it currently is provided in state law, the Coalition recommends that local policies to determine the appropriateness of public lands for potential affordable housing development clearly directing local government staff, while also considering site criteria such as:

- Physical site characteristics such as lot size, shape, and existing zoning,
- Availability of existing infrastructure
- Proximity to jobs, transit, and other amenities
- Environmental considerations
- Whether the land is needed for another governmental purpose.

Additional Provisions in the Live Local Act

Amendments to the State Housing Strategy – s. 420.0003, Florida Statutes

The Live Local Act also provided substantial amendments to the state housing strategy. These amendments include a statement of policy that local governments in the state shall "provide incentives to encourage the private sector to be the primary delivery vehicle for the development of affordable housing," such as the establishment of density bonus incentives. Additional innovative solutions to housing issues are also suggested where appropriate, such as:

- Utilizing publicly held land to develop affordable housing through state or local land purchases, long-term land leasing, and school district affordable housing programs.
- Community-led planning that focuses on urban infill, flexible zoning, redevelopment of commercial property into mixed-use property, resiliency, and furthering development in areas with preexisting public services, such as wastewater, transit, and schools.
- Project features that maximize efficiency in land and resource use, such as high density, high rise, and mixed use.
- Mixed-income projects that facilitate more diverse and successful communities.
- Modern housing concepts such as manufactured homes, tiny homes, 3D-printed homes, and accessory dwelling units (ADUs).

The Shimberg Center for Housing Studies at the University of Florida is now directed to "develop and maintain statewide data on housing needs and production, provide technical assistance relating to real estate development and finance, operate an information clearinghouse on housing programs, and coordinate state housing initiatives with local government and federal programs," and to "perform functions related to the research and planning for affordable housing."

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to evaluate affordable housing issues pursuant to the following schedule provided at s. 420.0003, F.S.:

- By December 15, 2023, and every 5 years thereafter, innovative affordable housing strategies implemented by other states, their effectiveness, and their potential for implementation in this state. The first report by OPPAGA on innovative housing strategies implemented by other states was published in December 2023.[1]
- By December 15, 2024, and every 5 years thereafter, affordable housing policies enacted by local governments, their effectiveness, and which policies constitute best practices for replication across this state. The report must include a review and evaluation of the extent to which interlocal cooperation is used, effective, or hampered. The first report by OPPAGA on the effectiveness of local government affordable housing policies was published in December 2024.[2]
- By December 15, 2025, and every 5 years thereafter, existing state-level housing rehabilitation, production, preservation, and finance programs to determine their consistency with relevant policies in this section and effectiveness in providing affordable housing. The report must also include an evaluation of the degree of coordination between housing programs of this state, and between state, federal, and local housing activities, and shall recommend improved program linkages when appropriate.

Each of these scheduled reports are required to be submitted to President of the Senate and the Speaker of the House of Representatives in accordance with this schedule.

Additional amendments to the state housing strategy through the Live Local Act include, but are not limited to:

- Encouraging local governments to enter into interlocal agreements to coordinate strategies to maximize the use of state and local funds for housing.

[1] https://oppaga.fl.gov/Documents/Reports/23-13.pdf
[2] https://oppaga.fl.gov/Documents/Reports/24-10.pdf

- Providing that state-funded developments should emphasize the use of developed land, urban infill, and the transformation of existing infrastructure in order to minimize sprawl, separation of housing from employment, and effects of increased housing on ecological preservation areas.
- Providing that housing available to the state's workforce should prioritize proximity to employment and services.
- Requiring that public-private partnerships emphasize the production and preservation of affordable housing.
- Highlighting the necessity of preserving existing affordable housing stock through rehabilitation programs and expanded neighborhood revitalization efforts.
- A wide range of needs for safe, decent, and affordable housing must be addressed, with an emphasis on assisting the neediest persons.

New Sales Tax Refund for Affordable Housing Construction

Affordable housing developments subject to an agreement with FHFC to serve extremely-low-income, very-low-income, or low-income households are now eligible to receive a sales tax refund on building materials used for those affordable units that are income-restricted under a land use restriction agreement with the county in which the property is located. Refunds may not exceed the lesser of $5,000 or 97.5% of the Florida sales or use tax paid on the cost of building materials for each eligible residential unit.

Online Postings of Expedited Permitting Procedures – s. 553.792, Florida Statutes

Local governments in Florida are now required to maintain on their website a policy containing procedures and expedited processing of building permits and development orders required by law to be expedited. This includes the requirement in the SHIP statute at s. 420.9071 that all local governments that receive SHIP funding must expedite the approvals of development orders and permits for affordable housing projects "to a greater degree than other projects."

Preemption of Temporary Rent Control Measures by Local Governments – s.125.0103/166.043, Florida Statutes

Prior to the passing of the Live Local Act, Florida law allowed local governments to enact temporary rent control measures upon a finding that such controls are "necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the public" and after a vote via public referendum. The Act repealed the language at s. 125.0103 and 166.043 allowing local governments to enact temporary rent control measures.

Contact Us for More Information

In these beginning years of the "Live Local Era" in Florida, questions remain as to how the Act's provisions will function in practice. For more information on how these new Live Local Act policies are being implemented throughout the state, the Florida Housing Coalition will continue to be a resource. Whether you are with a local government wanting to learn more or a property owner or developer seeking to utilize these new housing tools, we at the Florida Housing Coalition can assist you with your needs. Contact Kody Glazer at glazer@flhousing.org, or Ryan McKinless at mckinless@flhousing.org for more information.

Agenda Item #6C
Vertex Companies, LLC
Fire Plan Reviews and Inspections

CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT

AGENDA ITEM:	The Vertex Companies, LLC (VERTEX) Contract: City of Neptune Beach Life Safety and Fire Protection 3rd Party Plan Reviews and Inspections
SUBMITTED BY:	Heather Whitmore, AICP, PTP, Community Development Director
DATE:	November 25, 2025
BACKGROUND:	City of Neptune Beach seeks to utilize The Vertex Companies, LLC (VERTEX) for fire protection engineering services for the City of Neptune Beach Life Safety and Fire Protection 3rd Party Plan Reviews and Inspections. The scope of work shall include providing third-party review services of fire sprinkler, fire alarm, and other types of fire protection system permit submittals prepared by licensed contractors and design professionals for various projects, as well as conducting onsite fire inspections on behalf of the city on an as-needed basis. Services would include reviewing the drawings against the minimum requirements of the Florida Fire Prevention code and local jurisdictional requirements and providing comments or a recommendation for approval back to City of Neptune Beach Community Development Department upon completion. Site inspections would entail onsite inspections of buildings and fire protection systems followed by preparation of an inspection report.
BUDGET:	Annual budget of approximately $25,000
RECOMMENDATION:	Approve
ATTACHMENT:	Ex A) The Vertex Companies, LLC (VERTEX) Contract: City of Neptune Beach Life Safety and Fire Protection 3rd Party Plan Reviews and Inspections

November 11, 2025

Ms. Heather Whitmore, AICP, PTP
Community Development Director
City of Neptune Beach
Community Development Department
116 1st Street
Neptune Beach, FL 32266

RE: City of Neptune Beach Life Safety and Fire Protection 3rd Party Plan Reviews and Inspections
Neptune Beach, FL
Proposal No. P.010207.25

Dear Heather,

Pursuant to your request, The Vertex Companies, LLC (VERTEX) is pleased to present this proposal for fire protection engineering services for the City of Neptune Beach Life Safety and Fire Protection 3rd Party Plan Reviews an Inspections project(s) associated with the above-referenced matter. Our proposal contains a Project Work Scope, Project Schedule, Fee Schedule, Terms and Conditions, and a Project Work Authorization.

1.0 PROJECT WORK SCOPE

The scope of work shall include providing third-party review services of fire sprinkler, fire alarm, and other types of fire protection system permit submittals prepared by licensed contractors and design professionals for various projects, as well as conducting onsite fire inspections on behalf of the city on an as-needed basis. Our services would include reviewing the drawings against the minimum requirements of the Florida Fire Prevention code and local jurisdictional requirements and providing comments or a recommendation for approval back to City of Neptune Beach Community Development Department upon completion. Site inspections would entail onsite inspections of buildings and fire protection systems followed by preparation of an inspection report.

2.0 PROJECT SCHEDULE

Vertex understands the need for timely completion of each project and is prepared to commence work upon receipt of the Project Work Authorization Form. The project review of each permit submittal shall be completed within two (2) weeks of receipt of each permit submittal and site visits shall be scheduled as needed within one week of request.

3.0 ASSUMPTIONS

The scope of work for each project shall be based upon being provided complete relevant documentation for each permit submittal at the time of requested review.

4.0 EXCLUSIONS

Exclusions to this scope of work include, but are not limited to, the following items:

1) Preparation of engineering criteria and/or system design drawings
2) Review of any systems not specifically listed within the scope of work for each project
3) Assumption of Engineer of Record status for any systems

5.0 FEE SCHEDULE

The fee for these services will be billed at a time and materials rate of **One Hundred Sixty Dollars ($160) per hour**. Invoicing will be on a monthly basis. Payment will be due within 30 days of receipt of invoice for completed services. Any unpaid balance will be assessed a service fee of 1.5% per month

6.0 REIMBURSEMENT OF EXPENSES

Direct expenses incurred by Vertex due to out of town travel, mailing fees, printing fees for hard copy drawings, and bulk reproductions shall be considered reimbursable expenses and invoiced on the basis of actual cost-plus ten percent (10%).

7.0 TERMS AND CONDITIONS

This proposal and subsequent agreement will be conducted in accordance with the attached Terms and Conditions. Please note that this proposal is valid for 30 days from the date notated above.

8.0 PROJECT AUTHORIZATION

Attached you will find a copy of the Project Work Authorization. Please sign and return it to Vertex, the receipt of which shall constitute our notice to proceed.

Thank you for the opportunity to submit this proposal.

Sincerely,

Stephen Kowkabany

Steve Kowkabany, P.E.
Executive Vice President

PROJECT WORK AUTHORIZATION

Description of Services:	City of Neptune Beach Life Safety and Fire Protection 3rd Party Plan Reviews and Inspections
Project Location:	Neptune Beach, FL
Proposal No. and Date:	P.010207.25; November 11, 2025
Cost (Time & Materials Basis):	$160.00 Per Hour

CHARGE INVOICES TO THE ACCOUNT OF:

Client:	City of Neptune Beach Community Development Department 116 1st Street Neptune Beach, FL 32266
Phone/Email:	904-270-2400/cdd@nbfl.us

Billing Contact Information:
If the invoice is to be mailed for approval to someone other than the addressee of this proposal, please indicate in the space below.

Attn: **EMAIL**:

Accounts Payable Phone#:

PAYMENT TERMS:
Invoices for completed work will be issued by the calendar month for continuous or extended projects unless otherwise agreed. Payment is net thirty days.

This is a legal and binding contract between City of Neptune Beach Community Development Department and The Vertex Companies, LLC as referenced in the attached proposal of this date and described above.

FEE FOR SERVICES ACCEPTED BY: ________________________Date: _______________
City of Neptune Beach
Community Development Department

The Vertex Companies, LLC

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions, including any Supplemental Terms and Conditions, are incorporated by reference into the Proposal (including any separately attached Fee Schedule) of The Vertex Companies, LLC ("VERTEX") for the performance of work and services ("Scope of Work") described in the Proposal for the benefit of CLIENT, and together shall constitute the agreement ("Agreement") between VERTEX and CLIENT under which the Scope of Work is to be performed by VERTEX for CLIENT. VERTEX must receive acceptance of the Proposal within ninety (90) days or the Proposal will no longer be valid, unless otherwise agreed to in writing by VERTEX. Any estimate of time and materials shall not be considered as a fixed price, but only an estimate (unless otherwise specifically stated in the Proposal).

1.0 SCOPE OF WORK:

a. The Scope of Work shall include all services provided by VERTEX which are reasonably necessary and appropriate for the effective and prompt fulfillment of VERTEX's obligations under the Agreement.

b. It is understood that the Scope of Work defined in the Proposal is based on the information provided by CLIENT. If this information is incomplete or inaccurate, or if unexpected conditions are discovered, the Scope of Work may change, even as the work is in progress. In addition, CLIENT may request additional services which will constitute a change in the Scope of Work. When a change in the Scope of Work is necessary, a written amendment to the Agreement shall be executed by CLIENT and VERTEX prior to VERTEX commencing the change in the work or services. If VERTEX believes an immediate change is necessary to protect human health or the environment, a written amendment incorporating the change shall be made as soon as is practicable, and CLIENT's consent to such amendments shall not be unreasonably withheld.

2.0 RIGHT OF ENTRY AND REPRESENTATION OF PERMITTING:

CLIENT grants to VERTEX the right of entry to the geographical location where the services are to be performed ("Project Site") by its employees, agents, consultants, contractors and subcontractors, for the purpose of performing the services. CLIENT represents that it has obtained the necessary permits and licenses for the services as described in the Proposal. If CLIENT does not own the Project Site, CLIENT warrants and represents to VERTEX that it has the authority and permission of the owner and/or occupant of the Project Site to grant the right of entry to VERTEX.

3.0 PAYMENT TERMS AND INVOICES:

a. VERTEX will submit invoices to CLIENT monthly and a final bill upon completion of the services. There shall be no retainage unless otherwise agreed upon in the Agreement. Payment is due within thirty (30) days from the invoice date, regardless of whether CLIENT has been reimbursed by any other party. CLIENT agrees to pay interest of one and one-half percent (1-1/2%) per month (or the maximum allowed by law, whichever is lower), of the invoiced amount per month for any payment received by VERTEX more than thirty (30) calendar days from the date of the invoice. If CLIENT objects to all or any portion of the invoice, CLIENT shall nevertheless timely pay the undisputed amount of such invoice and promptly advise VERTEX in writing within ten (10) days of receipt of invoice of the reasons for disputing any amount. CLIENT and VERTEX will promptly resolve disputed items.

b. Unless otherwise agreed in writing, VERTEX shall be paid for any services additional to those set forth in the Agreement performed at CLIENT's request in accordance with the rates and charges set forth in the Proposal or Fee Schedule, if any. Additional services requested by CLIENT shall be subject to and performed in accordance with these General Terms and Conditions and any Supplemental Terms and Conditions.

c. CLIENT's obligation to pay for the services is in no way dependent upon CLIENT's ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or upon CLIENT's successful completion of the project. CLIENT shall remain obligated to pay VERTEX for the services even though the test results or reports produced by VERTEX may contain conclusions unfavorable to CLIENT's interest.

d. Should CLIENT fail to make payment on any invoice within thirty (30) days of receipt of such invoice, VERTEX may at any time, without waiving any other claim against CLIENT and without thereby incurring any liability to CLIENT, suspend any or all services in connection with the Agreement and/or retain any reports or other information until all outstanding amounts are paid in full or CLIENT provides VERTEX with adequate assurances of payment. CLIENT shall pay any attorneys' fees, collection fees or other costs incurred in collecting any delinquent amounts.

e. To the extent VERTEX requires payment of a retainer fee, the amount of the fee shall be stated in the Proposal. The agreed upon retainer fee may be applied to the final invoice. The unused portion of the retainer will be refunded to CLIENT at the conclusion of the project. A charge of 50% of the retainer amount will be incurred on any project that is cancelled without a minimum of $500 invoiced for professional services performed. Should VERTEX be retained for longer than six months as of the date of the Agreement without professional services performed, CLIENT shall be charged 100% of the retainer amount.

4.0 STANDARD OF CARE:

The services shall be performed in accordance with generally accepted industry principles and practices, consistent with a level of care and skill ordinarily practiced by reputable members of the profession currently providing similar services under similar circumstances, at the same time and in the same or similar locale (the "Standard of Care"). EXCEPT AS SET FORTH HEREIN, VERTEX MAKES NO OTHER REPRESENTATION, GUARANTEE, OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, CONCERNING ANY OF THE SERVICES WHICH MAY BE FURNISHED BY VERTEX TO CLIENT. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION OF THE SERVICES TO BE PERFORMED. CLIENT agrees to give VERTEX written notice of any breach or default under this section and to give VERTEX a reasonable opportunity to cure such breach or default, without the payment of additional fees to VERTEX, as a condition precedent to any claim for damages.

5.0 LIMITATION OF PROFESSIONAL LIABILITY:

CLIENT and VERTEX have discussed the risks and benefits of the project and the compensation to be paid to VERTEX. To the maximum extent permitted by law, the total liability, in the aggregate, of VERTEX and its shareholders, officers, directors, affiliates, employees, subsidiaries, agents, independent professional associates, subcontractors, and consultants, and any of them, to CLIENT and any one claiming by, through or under CLIENT, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to VERTEX's services, the project or this Agreement, from any cause or causes whatsoever, including but not limited to, the negligence, errors, omissions, strict liability, breach of contract, misrepresentation, or breach of warranty of VERTEX or VERTEX's shareholders, officers, directors, employees, affiliates, subsidiaries, agents or independent professional associates, subcontractors, or consultants, or any of them, shall not exceed $50,000.00 or VERTEX's total fee for the services rendered on this project, whichever is greater. VERTEX will waive this limitation up to $1,000,000 upon CLIENT's request and agreement in writing to pay an additional consideration of ten percent (10%) of VERTEX's total fee or $500.00, whichever is greater. Payment of this additional consideration will not be construed as being for insurance of

any type, but will be increased consideration for the greater risk involved. If the results of VERTEX's services will be used to aid in the development of drawings and specifications for construction, CLIENT agrees to require other design professionals, the contractor and its subcontractors selected for such construction, to agree to require an identical limitation of VERTEX's liability for damages suffered by other design professionals, the contractor or subcontractor arising from VERTEX's professional acts, errors or omissions.

CLIENT acknowledges that (i) without the inclusion of the liability provision, VERTEX would not have performed the services; (ii) it has had the opportunity to negotiate the terms of this limitation of liability as part of an "arms-length transaction"; (iii) the limitation amount may differ from the amount of professional liability insurance required of VERTEX under this Agreement; and (iv) the limitation of liability provision is merely a limitation, and not an exculpation, of VERTEX's liability.

6.0 INSURANCE:

a. VERTEX represents that it will maintain the following forms and amounts of insurance.

(1) Workers Compensation and Employers' Liability Insurance in compliance with the laws of the state having jurisdiction over the individual employee.

(2) Professional Liability Insurance of at least $1,000,000.00 per claim/occurrence and $1,000,000.00 aggregate covering the professional activities VERTEX is performing under the Scope of Work.

(3) Commercial general liability insurance policies of at least $1,000,000.00 per occurrence and $1,000,000.00 aggregate covering the activities VERTEX is performing under the Scope of Work.

(4) Automobile liability insurance with coverage of at least $500,000 per occurrence.

b. Certificates for such policies of insurance shall be provided to CLIENT. CLIENT will be named as an additional insured on the Certificate(s) upon CLIENT's request, except on VERTEX's Workers Compensation and Professional Liability policies and where prohibited by law. CLIENT acknowledges that VERTEX will not be liable to CLIENT for any loss, damage, cost or expense which, in the aggregate, is greater than the amounts of VERTEX's insurance coverage limits, exclusions and conditions as set forth in such policies, except to the extent that VERTEX is found by a final judgment of a court of competent jurisdiction to have caused any loss, cost, damage or expense solely by reason of VERTEX's gross negligence. Claims against VERTEX based upon failure to perform in its professional acts in accordance with the Standard of Care required in Section 4.0 are limited by the provisions of Section 5.0.

7.0 TERMINATION:

a. Either party may suspend performance immediately upon becoming aware of a breach of the terms of this Agreement by the other party and provide written notice of its intention to terminate. The filing of a voluntary or involuntary bankruptcy petition, appointment of a receiver, assignment for the benefit of creditors or other similar acts of insolvency shall constitute a breach. Termination will become effective fourteen (14) days after receipt of the written notice by the breaching party unless the event(s) giving rise to the breach are remedied within that time frame, or the party seeking termination revokes its notice. CLIENT or VERTEX may immediately terminate this Agreement when it is determined that the work or services being performed is contrary to existing law.

b. Upon fourteen (14) days' written notice, CLIENT may, without cause, terminate this Agreement with VERTEX. If the Agreement is terminated without cause, VERTEX may recover from CLIENT payment for all services performed to the date of termination in accordance with this Agreement, and any proven loss, cost or expense in connection with the services, including those resulting from the termination. Upon receipt of such payment, VERTEX shall deliver to CLIENT all reports and documents pertaining to services performed up to termination.

8.0 ASSIGNS AND ADMENDMENTS:

This Agreement may be amended only by written instrument signed by both parties. CLIENT shall not assign this Agreement or any reports or information generated pursuant to this Agreement without the written consent of VERTEX. Nothing under these General Terms and Conditions and corresponding Proposal shall be construed to give any rights or benefits to any person or entity other than the CLIENT and VERTEX, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the CLIENT and VERTEX and not for the benefit of any other person or entity.

9.0 CONFLICTS:

In the event of any conflict between the provisions and terms of the Proposal, the General Terms and Conditions, and the Supplemental Terms and Conditions, those conflicting terms shall be interpreted in accordance with the following priority: (1) Supplemental Terms and Conditions, (2) General Terms and Conditions, and (3) Proposal (with the written words of the Proposal taking precedence over the Fee Schedule, if one is attached).

10.0 SAFETY:

VERTEX's responsibility for the safety of persons on the Project Site shall be limited to its own personnel and its subcontractors and any other persons over whom VERTEX has control on the Project Site. This shall not be construed to relieve the CLIENT or any of its contractors from their responsibilities for maintaining a safe job site. Neither the professional activities of VERTEX, nor the presence of VERTEX's employees and its subcontractors shall be construed to imply that VERTEX has any responsibility for any activities on the Project Site performed by personnel other than VERTEX's employees or subcontractors. VERTEX shall, if so requested, comply with the reasonable requirements of any applicable health and safety plan provided to it by CLIENT.

11.0 CONTROL OF SITE:

If the services to be performed under the Scope of Work are to be performed on property controlled by CLIENT, CLIENT acknowledges that it is now and shall remain in control of the Project Site at all times.

12.0 EXISTING SITE AND STRUCTURE INFORMATION:

a. CLIENT shall furnish or cause to be furnished to VERTEX all information known to CLIENT that relates in any manner to soil conditions, subsurface hazards, man-made obstructions, or hazardous conditions or materials on the Project Site, including but not limited to, hazardous wastes, hazardous substances, underground storage tanks, ACM, pipelines and utility lines. VERTEX shall be entitled to rely upon the information provided by CLIENT. Failure to notify VERTEX of any of the above listed subsurface hazards or conditions known to CLIENT shall result in CLIENT assuming full liability for any and all costs, expenses and damages incurred by VERTEX as a result of such failure. VERTEX shall not be liable for damage or injury arising from damage to subterranean structures, which are not called to VERTEX's attention or correctly shown on the documents furnished to VERTEX.

b. A structural condition is hidden if concealed by an existing finish or if it cannot be investigated by reasonable visual observation. If VERTEX has reason to believe that a hidden structurally deficient condition may exist, VERTEX shall notify the CLIENT who shall authorize and pay for all costs associated with the investigation of such a condition and, if necessary, all costs necessary to correct said condition. If (1) the CLIENT fails to authorize such investigation or correction after due notification, or (2) VERTEX has no reason to believe that such a condition exists, the CLIENT is responsible for all risks associated with this condition, and VERTEX shall not be responsible for the existing condition nor any resulting damages to persons or property.

c. If the presence of an unanticipated hazardous substance or condition is discovered during the performance of the Scope of Work which could pose a hazard to VERTEX's employees, agents and subcontractors, VERTEX shall cease work and determine the necessary health and safety precautions to continue the Scope of Work. The cost of these necessary health and safety precautions shall be a change and shall be managed in accordance with Section 1.b.

13.0 REPORTS AND OWNERSHIP OF DOCUMENTS:

Upon final payment, all documents produced by VERTEX shall be the property of CLIENT. All draft reports, field data, field notes, internal calculations, etc. are instruments of service, and shall remain the sole property of VERTEX. Reports may not, in whole or in part, be disseminated or conveyed to any other party, nor used by any other party in whole or in part, without the prior written consent of VERTEX, except as required by law. All reports and other work prepared by VERTEX for CLIENT shall be utilized solely for the intended purposes and the Project Site described in the Proposal. VERTEX will retain all pertinent records for a period of three (3) years following the submission of VERTEX's report to CLIENT. Such records will be available to CLIENT upon request at VERTEX's office during normal office hours on reasonable notice, and copies will be furnished by VERTEX to CLIENT for the total cost of reproduction of the same.

14.0 CONFIDENTIAL INFORMATION:

VERTEX will hold as confidential all business and technical information obtained or generated in performing of the services under this Agreement. VERTEX will not disclose such information without CLIENT's consent except to the extent required for: (1) performance of services under this Agreement; (2) compliance with professional standards of conduct for preservation of the public safety, health, and welfare; (3) compliance with any court order, statute, law, or governmental directive; and/or (4) protection of VERTEX against claims or liabilities arising from the performance of services under this Agreement. VERTEX's obligations hereunder shall not apply to information in the public domain or lawfully obtained on a non-confidential basis from others.

15.0 FIELD MONITORING:

If VERTEX's services include monitoring of work performed by other contractors, under no circumstances shall VERTEX have the right or obligation to stop or direct the contractor's work. VERTEX will only provide data and recommendations to CLIENT. VERTEX shall not assume responsibility for the contractor's means, methods, techniques, sequences, or procedures and VERTEX's services shall not relieve the contractor of its responsibilities for performing the work in accordance with the plans and specifications and applicable laws and regulations. Continuous monitoring by VERTEX's employees does not mean that VERTEX is observing all activities of the contractor or any other activities on the Project Site.

16.0 GOVERNING LAW/DISPUTE RESOLUTION:

a. This Agreement is governed by and shall be interpreted in accordance with the laws of the State of Massachusetts, without regard to principles of conflicts of law.

b. All disputes between the VERTEX and CLIENT under this Agreement shall be referred, upon notice by one party to the other party, to a senior manager of VERTEX designated by VERTEX, and a senior manager of CLIENT designated by CLIENT, for resolution on an informal basis as promptly as practicable. In the event the designated senior managers are unable to resolve the dispute within ten (10) days of receipt of the notice, or such other period to which the parties may jointly agree, then either party may exercise any remedy available at law or in equity. All negotiations pursuant to this clause shall be confidential and treated as compromise and settlement for purposes of the rules of evidence.

c. All legal actions by either party to the Agreement against the other party for breach of this Agreement, failure to perform under this Agreement in accordance with an applicable standard of care, indemnity, or contribution (however denominated) shall be barred two years from the day after the date on which the party bringing the action knew or reasonably should have known of the facts giving rise to the cause or causes of action; but in no event may any such claim be filed, commenced or otherwise asserted more than two years from the date on which VERTEX completes its services. Nothing in this Section shall be construed in any way to extend the time period for filing of a legal action under any applicable statute of limitation or repose.

d. Each party hereto irrevocably (i) submits to the exclusive jurisdiction of the federal and state courts located in Massachusetts and sitting in Boston; (ii) waives any objection which it may have to the laying of venue of any proceedings brought in any such court; and (iii) waives any claim that such proceedings have been brought in an inconvenient forum. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT.

e. If any claim under this Agreement is submitted to litigation or arbitration, the prevailing party in such litigation or arbitration shall be entitled to recover all of its reasonable attorney's fees and court costs incurred in the prosecution or defense of the claim. In any event, the maximum amount recoverable under this paragraph will not exceed the maximum amount in Section 5.0.

17.0 CONSEQUENTIAL DAMAGES:

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES INCLUDING, THOUGH NOT LIMITED TO, LOSS OF INCOME, LOSS OF PROFITS, LOSS OR RESTRICTION OF USE OF PROPERTY, LOSS OF GOODWILL, OR ANY OTHER BUSINESS LOSSES REGARDLESS AS TO WHETHER SUCH DAMAGES ARE CAUSED BY BREACH OF CONTRACT OR WARRANTY, NEGLIGENT ACT OR OMISSION OR OTHER WRONGFUL ACT. The provisions of this Section shall apply to the termination of this Agreement and shall survive such termination.

18.0 DELAYS IN WORK:

VERTEX will charge CLIENT at standard rates for stand-by or non-productive time or for delays in VERTEX's work caused by CLIENT or CLIENT's contractors unless otherwise specifically provided for in the Agreement.

19.0 FAILURE TO FOLLOW RECOMMENDATIONS:

CLIENT will not hold VERTEX liable for problems that may occur if VERTEX's recommendations are not followed and agrees to defend, indemnify and hold VERTEX harmless from any claim or liability for injury or loss that results from failure to implement VERTEX's recommendations.

20.0 FORCE MAJEURE:

Neither CLIENT nor VERTEX shall hold the other responsible for damages or delays in performance caused by events beyond the control of the other party and which could not reasonably have been anticipated or prevented, including but not limited to, acts of governmental authorities, acts of God, materially different site conditions, wars, acts of terrorism, riots, rebellions, sabotage, fires, explosions, accidents, floods, strikes or other conceded acts of workers, lockouts, or changes in laws, regulations or ordinances. As referenced above, acts of governmental authorities shall include, but are not limited to, matters involving permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations, consolidations, conditional use permitting, building permitting, and enforcement actions, including but not limited to, enforcement environmental regulations. The party intending to invoke force majeure shall provide prompt notice to the other party.

21.0 INDEMNIFICATION:

a. In addition to the specific provisions set forth above, VERTEX will defend, indemnify and hold harmless CLIENT and its representatives, agents, employees, and successors and assigns from and against any and all claims, suits, actions, losses, penalties, fines, and damages of any nature whatsoever, including reasonable attorney's fees, expert witnesses fees, and consultant fees, and court costs but only to the extent arising or resulting from (1) VERTEX's breach of this Agreement; and/or (2) VERTEX's negligence or intentional misconduct.

b. In addition to the specific provisions set forth above, CLIENT will defend, indemnify and hold harmless VERTEX and its representatives, agents, employees, and successors and assigns from and against any and all claims, suits, actions, losses, penalties, fines, and damages of any nature whatsoever, including reasonable attorney's fees, expert witnesses fees, and consultant fees, and court costs arising or resulting from (1) CLIENT's breach of this Agreement; (2) CLIENT's negligence or intentional misconduct; and (3) the existence of any hazardous substance or condition at the site(s) where VERTEX is performing the work and services under the Scope of Work, unless the negligent conduct of VERTEX exacerbates and causes the spread of the hazardous substance(s) or the development of a hazardous condition.

22.0 INDEPENDENT CONTRACTOR:

In all matters relating to the performance of this Agreement, VERTEX is and shall remain an independent contractor and shall not be considered as a representative of the CLIENT or engaged in a partnership or joint venture with the CLIENT.

23.0 SURVIVAL:

The parties agree that the provisions of Sections 5, 6, 14, and 16 survive the completion and/or termination of this Agreement. In addition, all provisions of this Agreement allocating responsibility or liability between VERTEX and CLIENT shall survive the completion of services and/or termination of this Agreement.

24.0 SEVERABILITY:

Any provision of this Agreement later held to be unenforceable shall be deemed void, but all remaining provisions shall continue in force and shall be construed as a whole.

25.0 TITLES:

The titles used in this Agreement are for general reference only and are not part of the Agreement. Parties to this Agreement are advised to read each provision and rely on the guidance of legal counsel as necessary to help assure a complete understanding of all provisions and the obligations imposed through acceptance.

26.0 MISCELLANEOUS:

a. These General Terms and Conditions and any documents referenced herein constitute the entire Agreement between VERTEX and CLIENT. This Agreement supersedes all other agreements, oral or written. No cancellation, modification, amendment, deletion, addition, waiver or other change in the Agreement shall have effect unless specifically set forth in writing signed by all parties.

b. This Agreement may be signed by the CLIENT or the CLIENT's authorized representative. Signatures may be submitted by e-mail and/or facsimile, and the signature so received shall have the same legal force as an original signature.

c. This Agreement may be executed in several counterparts, each of which will be deemed an original but all of which constitute one and the same instrument. However, in making proof with respect to this Agreement, it will be necessary to produce only one copy hereof signed by the party to be charged.

d. In the event this Agreement is not fully executed by both parties and CLIENT has accepted VERTEX's services, CLIENT's acceptance of services shall constitute consent to the terms of this Agreement, and shall have the same binding effect as if signed by the parties.

SPONSORED BY:
COUNCILOR BRENT ROGERS

Agenda Item #8A
Ord. No. 2025-18
Second Read
Repeal Sec. 27-133(d)

CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT

AGENDA ITEMS:	Second Reading of Ordinance 2025-18: Repeal of Section 27-133(d)
SUBMITTED BY:	Paul Waters, City Attorney Sponsored by Councilman Brent Rogers
DATE:	December 1, 2025
BACKGROUND:	Sec. 27-133(d) of Division 7, Article III, of the Neptune Beach Code of Ordinances provides that, in the event of an appeal of any administrative decision, the initiation of such appeal will stay all actions required by or relating to the decision being appealed, unless the city manager certifies to the community development board that such a stay would, in his opinion, cause imminent peril to life or property, in which case the actions shall not be stayed. Sec. 27-133(d) allows meritless appeals filed by neighbors, or anyone who claims to be an aggrieved or adversely impacted person to stop construction on another citizen's property without providing the property owner notice, or the right to challenge the stop work order. This unjustly burdens the property rights of impacted property owners and creates a possible due process violation. The repeal of this section has no impact on the City's ability to issue stop work orders on properties that truly pose a danger to human health, safety and welfare.
RECOMMENDATION:	Second Reading and Adoption of Ordinance No. 2025-18
ATTACHMENTS:	1. Business Impact Estimate provided in accordance with Section 166.041(4), Florida Statutes. 2. Ordinance No. 2025-18

Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City of Neptune Beach's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: **ORDINANCE 2025-18: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES, DIVISION 7 – REVIEW OF ADMINISTRATIVE, LEGISLATIVE AND QUASI-JUDICIAL DECISIONS, ARTICLE III – ADMINISTRATIVE AND ENFORCEMENT PROCEDURES, TO AMEND SECTION 27-133, TITLED "REVIEW OF ADMINISTRATIVE DECISIONS"; REMOVING REQUIREMENT THAT THE INITIATION OF AN ADMINISTRATIVE APPEAL WILL STAY ALL ACTIONS REQUIRED BY OR RELATING TO THE DECISION BEING APPEALED; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

This Business Impact Estimate is provided in accordance with section 166.041(4), *Florida Statutes*. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the City is, nevertheless providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

The proposed ordinance is required for compliance with Federal or State law or regulation;

☐ The proposed ordinance relates to the issuance or refinancing of debt;

☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government.

☐ The proposed ordinance is an emergency ordinance;

☐ The ordinance relates to procurement; or

☐ The proposed ordinance is enacted to implement the following:

---

[1] *See* Section 166.041(4)(c), *Florida Statutes*.

a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

This Ordinance repeals the requirement found in Section 27-133 that mandates stop work orders pending the resolution of appeals of administrative decisions.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance, or for which businesses will be financially responsible; and
(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

(a) Unknown

(b) Unknown

(c) Unknown

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

N/A

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

N/A

SPONSORED BY:
BRENT ROGERS
COUNCIL MEMBER

ORDINANCE NO. 2025-18

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES, DIVISION 7 – REVIEW OF ADMINISTRATIVE, LEGISLATIVE AND QUASI-JUDICIAL DECISIONS, ARTICLE III – ADMINISTRATIVE AND ENFORCEMENT PROCEDURES, TO AMEND SECTION 27-133, TITLED "REVIEW OF ADMINISTRATIVE DECISIONS"; REMOVING REQUIREMENT THAT THE INITIATION OF AN ADMINISTRATIVE APPEAL WILL STAY ALL ACTIONS REQUIRED BY OR RELATING TO THE DECISION BEING APPEALED; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Sec. 2(b), of the Florida Constitution, and Chapter 166 of the Florida Statutes, the City of Neptune Beach ("City") possesses the governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes and to protect the health, safety, and welfare of the City's citizens and residents, except when expressly prohibited by law; and

WHEREAS, Sec. 27-133(d) of Division 7, Article III, of the Neptune Beach Code of Ordinances provides that, in the event of an appeal of any administrative decision, the initiation of such appeal will stay all actions required by or relating to the decision being appealed, unless the city manager certifies to the community development board that such a stay would, in his opinion, cause imminent peril to life or property, in which case the actions shall not be stayed; and

WHEREAS, the provisions of Sec. 27-133(d) are not otherwise mandated by state or federal law; and

WHEREAS, the City Council finds the provisions of Sec. 27-133(d) to unjustly burden the property rights of impacted property owners, and further finds that it is in the best interest of the welfare of citizens and property owners of the City of Neptune Beach to prevent the existence of a challenge to an administrative decision from burdensomely impacting a property owner's rights over his property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA:

SECTION 1: Amendment to the Code of Ordinances. Sec. 27-133 of Division 7, Review of Administrative, Legislative and Quasi-Judicial Decisions, Article III, City Council, of the Code of Ordinances of the City of Neptune Beach, Florida, is hereby amended to read as follows:

Sec. 27-133. Review of administrative decisions.

[…]

~~(d) *Effect of appeal.* An appeal stays all actions required by or relating to the decision being appealed, unless the city manager certifies to the community development board that such a stay would, in his opinion, cause imminent peril to life or property, in which case the actions shall not be stayed.~~

SECTION 2: Repeal of Conflicting Provisions. All ordinances, resolutions, policies, or procedures in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3: Codification. The provisions of this Ordinance shall become and be made a part of the *Code of Ordinances of the City of Neptune Beach, Florida* and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections Three, Four and Five shall not be codified.

SECTION 4: Severability. If a Court of competent jurisdiction at any time finds any provision of this Ordinance to be unlawful, illegal, or unenforceable, the offending provision shall be deemed severable and removed from the remaining provisions of this Ordinance which shall remain in full force and intact.

SECTION 5: Effective Date. This ordinance shall immediately take effect upon second reading and approval.

VOTE RESULTS OF FIRST READING:

Mayor Corrine A. Bylund	YES
Vice Mayor Nia Livingston	YES
Councilor Josh Messinger	YES
Councilor Brent Rogers	YES
Councilor Tim Horvath	YES

Passed at First Reading this 3rd day of November, 2025.

VOTE RESULTS OF SECOND READING:

Mayor Corrine A.. Bylund	____
Vice Mayor Nia Livingston	____
Councilor Josh Messinger	____
Councilor Brent Rogers	____
Councilor Tim Horvath	____

Passed at Second Reading this ____ day of __________, 2025.

____
Corrine A. Bylund, Mayor

ATTEST:

____
Catherine Ponson, City Clerk

Approved as to form and content:

____
Paul Waters, City Attorney

SPONSORED BY:
MAYOR CORRINE BYLUND

Agenda Item #8B
Ord. No. 2025-19
BES Agreement

CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT

AGENDA ITEMS:	First Reading of Ordinance 2025-19: Beaches Energy Agreement
SUBMITTED BY:	City Manager Richard Pike
DATE:	December 1, 2025
BACKGROUND:	The ordinance and franchise agreement among other things, grants Beaches Energy the right to operate an electric and distribution system in the City's rights-of-way subject to certain terms and conditions.
RECOMMENDATION:	First Reading and Adoption of Ordinance No. 2025-19
ATTACHMENTS:	1. Business Impact Estimate provided in accordance with section 166.041(4), Florida Statutes. 2. Draft Ordinance 2025-19, Clean and Red-lined version 3. Memo of Differences from Attorney Wright 4. 2002 Agreement

Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City of Neptune Beach's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: **ORDNANCE NO. 2025-19**, **AN ORDINANCE GRANTING TO THE CITY OF JACKSONVILLE BEACH, FLORIDA, DOING BUSINESS AS BEACHES ENERGY SERVICES, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO OPERATE AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF NEPTUNE BEACH AND TO CONSTRUCT, MAINTAIN, OPERATE AND EXTEND ELECTRIC TRANSMISSION AND DISTRIBUTION LINES IN THE PUBLIC RIGHTS-OF-WAY OF SAID CITY; PROVIDING THE TERMS AND CONDITIONS OF SUCH FRANCHISE; PROVIDING TERMS AND CONDITIONS FOR THE UNDERGROUNDING OF ELECTRIC FACILITIES WITHIN THE CITY OF NEPTUNE BEACH; PROVIDING FOR MONTHLY FRANCHISE FEE PAYMENTS TO THE CITY OF NEPTUNE BEACH; PROVIDING FOR EITHER PARTY'S RIGHT TO TERMINATE THE FRANCHISE AGREEMENT CREATED HEREBY UNDER SPECIFIED CIRCUMSTANCES; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS IN OTHER CITY ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.**

This Business Impact Estimate is provided in accordance with section 166.041(4), *Florida Statutes*. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the City is, nevertheless providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

The proposed ordinance is required for compliance with Federal or State law or regulation;

☐ The proposed ordinance relates to the issuance or refinancing of debt;

☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

[1] *See* Section 166.041(4)(c), *Florida Statutes*.

☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government.

☐ The proposed ordinance is an emergency ordinance;

☐ The ordinance relates to procurement; or

☐ The proposed ordinance is enacted to implement the following:

a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

The ordinance serves a public purpose by among other things, granting Beaches Energy the right to operate an electric and distribution system in the City's rights-of-way subject to certain terms and conditions.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance, or for which businesses will be financially responsible; and
(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

(a) Unknown

(b) Unknown

(c) Unknown

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

N/A

4. Additional information the governing body deems useful (if any): *N/A*

SPONSORED BY:

MAYOR CORRINE BYLUND

ORDINANCE NO. 2025-19

Clean Version

AN ORDINANCE GRANTING TO THE CITY OF JACKSONVILLE BEACH, FLORIDA, DOING BUSINESS AS BEACHES ENERGY SERVICES, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO OPERATE AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF NEPTUNE BEACH AND TO CONSTRUCT, MAINTAIN, OPERATE AND EXTEND ELECTRIC TRANSMISSION AND DISTRIBUTION LINES IN THE PUBLIC RIGHTS-OF-WAY OF SAID CITY; PROVIDING THE TERMS AND CONDITIONS OF SUCH FRANCHISE; PROVIDING TERMS AND CONDITIONS FOR THE UNDERGROUNDING OF ELECTRIC FACILITIES WITHIN THE CITY OF NEPTUNE BEACH; PROVIDING FOR MONTHLY FRANCHISE FEE PAYMENTS TO THE CITY OF NEPTUNE BEACH; PROVIDING FOR EITHER PARTY'S RIGHT TO TERMINATE THE FRANCHISE AGREEMENT CREATED HEREBY UNDER SPECIFIED CIRCUMSTANCES; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS IN OTHER CITY ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Neptune Beach ("Neptune Beach" or "Grantor") finds it in the public interest to ensure that all areas within its corporate limits are adequately provided with high-quality and reliable electric service; and

WHEREAS, the City of Neptune Beach and the City of Jacksonville Beach, d/b/a Beaches Energy Services ("Beaches Energy" or "Grantee") are parties to that certain ELECTRIC SERVICE AGREEMENT Between CITY OF JACKSONVILLE BEACH, FLORIDA and CITY OF NEPTUNE BEACH, FLORIDA, dated and effective as of October 1, 2002 ("2002 Electric Agreement"); and

WHEREAS, Neptune Beach has determined that the public health, safety, and welfare will be promoted and served by converting the existing overhead electric facilities within the corporate limits of Neptune Beach to underground facilities to the maximum extent feasible; and

WHEREAS, Neptune Beach and Beaches Energy (each a "Party" and collectively, the "Parties") have negotiated this franchise agreement ("Franchise Agreement") to supersede and replace the 2002 Electric Agreement and to confirm the Parties' mutually agreed-upon rights and responsibilities applicable to Beaches Energy's provision of electric service to retail customers within Neptune Beach; and

WHEREAS, the City of Neptune Beach finds it in the public interest to retain control over the use of public rights-of-way by providers of electricity and other utilities to protect the public health, safety, and welfare, to ensure against interference with the public convenience, to promote aesthetic considerations, to promote planned and efficient use of limited right-of-way space, and to protect the public investment in and use of right-of-way property; and

WHEREAS, the City of Neptune Beach finds that entering into the franchise agreement created hereby is the best means of assuring that the above-described interests of the City, its inhabitants, and its individual and corporate citizens are promoted and protected;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA:

<u>Section 1</u>. <u>Grant of Electric Franchise</u>. In consideration of the mutual benefits that will accrue to the City of Neptune Beach, a municipal corporation of the State of Florida, sometimes referred to herein as the Grantor or as the "City," and the inhabitants

and citizens thereof, on the one hand, and to the City of Jacksonville Beach, doing business as Beaches Energy Services, a municipal corporation of the State of Florida, its successors and assigns, sometimes referred to herein as the Grantee or “Beaches Energy,” on the other hand, the City of Neptune Beach hereby gives and grants to the Grantee the nonexclusive right, authority, privilege, and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate, and conduct in said City of Neptune Beach’s public rights-of-way a system of overhead and underground electric light and power transmission and distribution facilities, including, without limitation, conduits, poles, wires, transformers, transformation substations, meters, transmission and distribution lines, and all other facilities installed in conjunction with or ancillary to all of the Grantee's operations and such other utility or other facilities of Grantee to provide service of any kind or nature to Customers, as hereinafter defined, including, without limitation, broadband, communications, dark fiber, natural gas, but not then in direct competition with utility services offered by City of Neptune Beach (hereinafter called “Grantee’s Facilities” or "Facilities"), for the purpose of supplying electricity, other electricity-related services incidental thereto, and other utilities to the Grantor and its successors and assigns, to the inhabitants of the City and to business entities operating therein, and to persons and business entities beyond the corporate limits of the Grantor who purchase electric service from the Grantee. (Collectively, all such entities that purchase electric service or other utilities services from Grantee are sometimes referred to herein as “Customers.”) As used in the preceding sentence, the term “other electricity-related services” means Grantee’s facility-to-facility data capabilities over the lines to identify faults, load information, and other data necessary or helpful to the Grantee’s provision of electric service. As used herein, the terms “public rights-of-way” and

"Grantor's public rights-of-way" shall mean property or any interest therein that is acquired for or devoted to a public road or alleyway, including but not limited to, roadways, highways, streets, or bridges for which the Grantor is the authority and to which the Grantor may lawfully grant access pursuant to applicable law, and includes the surface, the air space over the surface, and the area below the surface of such places. The rights and privileges granted hereby do not extend to any other public places, of any type whatsoever, that are administered by the Grantor but not located in any space within the specific definition of the Grantor's public rights-of-way set forth hereinabove, or to any similar places. The determination of whether a public place or public space is part of Grantor's public rights-of-way is within the sole and sound discretion of the Grantor and, except as to whatever statutory rights the Grantee may have to install its Facilities in certain road rights-of-way, which may be determined by a court of competent jurisdiction, as necessary, the Grantor's determination may not be challenged in any way in any venue.

This Ordinance and the mutual agreements created by this Ordinance and the Grantee's acceptance hereof are referred to herein as the "Franchise Agreement." As appropriate to the context, each of the Grantor and Grantee may be referred to herein individually as a "Party," and they may be referred to collectively as the "Parties" to this Franchise Agreement. The rights and privileges granted hereby are expressly subject to all of the provisions and limitations contained in this Franchise Agreement, including, expressly but without limitation, the Grantor's reserved Right to Purchase established herein and all provisions relating to the Grantor's right and ability to exercise that Right to Purchase as provided in various sections of this Franchise Agreement.

Section 2. Term & Termination The franchise and related rights and privileges granted by this Ordinance shall exist and continue for a period of thirty (30) years from the Effective Date of this Franchise Agreement. In the event that the Franchise Agreement has not otherwise been terminated or replaced by a new franchise agreement before the thirtieth anniversary of its Effective Date, then the Franchise Agreement shall continue in effect on a year-to-year basis until terminated pursuant to the terms hereof.

Section 3. Obligation to Supply Electrical Energy; Reliability; Force Majeure. Beaches Energy shall, at its sole cost and expense, furnish and provide reasonably uninterrupted service sufficient to meet the requirements of its Customers in the City of Neptune Beach; provided, however, that Beaches Energy shall not be liable or responsible for interruption of service or voltage fluctuations that result from fire, strike, riot, vandalism, explosion, failure of defective equipment or materials, flood, windstorm including named tropical storm systems and tornadoes, lightning, accident, acts of God, acts of the public enemy, any act by the supplier of bulk electrical energy to Beaches Energy, or other acts beyond the control of Beaches Energy, but Beaches Energy shall be prompt and diligent in removing and overcoming the cause or causes of any such interruptions to the extent reasonably practicable. Nothing herein contained shall be construed as permitting Beaches Energy to refuse to deliver electrical energy to Customers in the City of Neptune Beach after the cause of any interruption has been removed.

Beaches Energy does not guarantee that the supply of electrical energy pursuant to this Franchise Agreement shall be free from interruption occasioned by any of the causes heretofore mentioned, and it is agreed that such interruptions shall not constitute a breach of this Franchise Agreement on the part of Beaches Energy. With respect to the distribution of electrical energy, Beaches Energy shall not discriminate among its Customers, including the City of Neptune Beach and Customers located therein and also including Customers located in other parts of Grantee's service area outside the city limits of the City of Jacksonville Beach, and all services rendered hereunder shall be on an equal basis.

Unless otherwise expressly agreed to in writing by the Parties, no termination of this Franchise Agreement shall relieve either the Grantee or any of its successors or assigns of the Grantee's obligation to provide reasonably reliable electric service at lawful rates.

Section 4. Installation, Operation and Maintenance of Facilities. The Facilities of the Grantee shall be installed, located or relocated, erected, maintained, and operated in accordance with all laws, rules, and regulations applicable to the Grantee and the operation of its electric system, including without limitation ordinances and rules and regulations duly adopted and in effect within the City of Neptune Beach, provided that such ordinances, rules, and regulations shall be non-discriminatory and shall not make any adverse distinction between Grantee and any other person in intent, effect, and application. To avoid conflicts with traffic, the location or relocation of the Grantee's Facilities shall be made in accordance with the Grantor's reasonable rules and regulations with reference to the placing and maintaining of the Grantee's Facilities in, under, upon, along, over and across said public rights-of-way; provided, however, that such rules or regulations: (a) shall not prohibit nor limit the exercise of the Grantee's right to use said public rights-of-way for reasons other than unreasonable interference with vehicular (including bicycles) and pedestrian traffic, (b) shall not unreasonably interfere with the Grantee's ability to furnish reasonably sufficient, adequate and efficient electric service to all of its Customers, and (c) shall not require the relocation of any of the Grantee's Facilities installed before or after the Effective Date (as defined in Section 26 herein) of this Franchise Agreement in public rights-of-way unless or until widening or otherwise changing the configuration of the paved portion of any public right-of-way used by motor vehicles causes such installed Facilities to unreasonably interfere with motor vehicular traffic. Any relocation of Grantee's Facilities due to such widening or changes in the configuration of the paved portions of public rights-of-way by the Grantor, shall be accomplished at the sole expense of the Grantor. If such relocations of the Grantee's Facilities are due to widening or changes in the configurations of public rights-of-way that are owned by FDOT or the City of Jacksonville, such relocation shall be made by the Grantee at its sole cost and expense. The FDOT owns the median-placed street lights on State Highway A1A from Atlantic Boulevard to the southern corporate limits of the City of Neptune Beach. If a decision by the FDOT requires the relocation of part or all of the existing median-placed street lights, and if such relocation of street light facilities necessitates the relocation of any of Grantee's Facilities, Grantor and Grantee agree that such relocation of Grantee's Facilities shall be accomplished at the sole expense of FDOT. Grantor and Grantee further agree to coordinate and cooperate, to the maximum extent possible, to ensure that such relocation of Grantee's Facilities is accomplished at the sole expense of FDOT. In the event that FDOT cannot be required to bear the expense of such relocation of Grantee's Facilities, then Grantor and Grantee will negotiate a mutually acceptable resolution of all issues relating to the relocation of the Grantee's Facilities. If the relocation of the median-placed street lights is the result of a request by the Grantor, then the relocation of Grantee's Facilities shall be accomplished at the sole expense of the Grantor. The Grantor hereby agrees that for all decisions it makes as to widening or changes in the configuration of the paved portions of public rights-of-way that may have an impact on the Grantee, the Grantor shall (x) use reasonable efforts to minimize impacts on the Grantee and (y) reasonably communicate with the Grantee in advance of its final decision so that the Grantee has the right to evaluate the proposed decision of the Grantor and provider feedback to the Grantor on such proposed decision. Such rules and regulations shall recognize that above-grade Facilities of the Grantee installed after the Effective Date hereof should be installed near the outer boundaries of the public rights-of-way to the extent possible, and such installation shall be consistent with the Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.

The Grantee's rights to operate its Facilities are and shall remain subject to all applicable provisions of the Code of the City of Neptune Beach, all applicable and valid rules and regulations of the City of Neptune Beach, and all applicable laws, rules, and regulations of Duval County, the State of Florida, and the United States, as such laws, rules and regulations may be amended from time to time.

When any portion of a public right-of-way is excavated by the Grantee in the location or relocation of any of its Facilities, the portion of the public right-of-way so excavated shall within a reasonable time be replaced by the Grantee at its expense and in as good condition as it was at the time of such excavation. Nothing in this Franchise Agreement shall limit any entitlement or other right that the Grantee has to receive reimbursement of its costs from persons other than the Grantor.

Section 5. Indemnity. The Grantor shall in no way be liable or responsible for any accident or damage that may occur in the construction, location, relocation, operation, or maintenance by the Grantee of its Facilities hereunder due to Grantee's negligence or other misconduct, and the acceptance of this Franchise Agreement shall be deemed an agreement on the part of the Grantee to indemnify the Grantor and hold it harmless against any and all liability, loss, cost, damage or expense which may accrue to the Grantor by reason of the negligence, or other misconduct of the Grantee in the construction, location, relocation, operation, or maintenance of the Facilities of Grantee's electric system subject to this Franchise Agreement. Notwithstanding the foregoing in this Section 5, the Grantee's indemnification and hold harmless obligations to the Grantor shall be limited as the Grantee's liability is limited by section 768.28, Florida Statutes, and no part of this Franchise Agreement is intended to be a waiver of any rights of sovereign immunity that the Grantee may possess or assert under applicable law.

Section 6. Underground Electric Facilities. (a) To promote the public health, safety, and welfare of the inhabitants of the City of Neptune Beach and of all persons and entities who live, work, and conduct their business therein, and subject to the terms and conditions of this Franchise Agreement, Grantor plans to undertake the conversion of all overhead utility facilities within the Grantor's corporate limits to underground facilities to the extent technically and economically feasible, and Grantee will communicate regularly, and otherwise as requested by Grantor, on the status of its related undergrounding plans. The utility facilities to be converted include the Grantee's electrical distribution facilities and all other overhead utility facilities, including telecommunications, cable television, broadband, internet, fiber, and similar facilities, that are presently installed using overhead facilities and equipment;

provided, however, that Grantee takes no responsibility or liability for the overhead utilities facilities of any utility provider other than Grantee.

(b) In the public interest, and as consideration for this Franchise Agreement, Grantee agrees that it will cooperate in good faith with Grantor to facilitate Grantor's plan to complete its contemplated undergrounding project(s), subject to the terms and conditions of this Franchise Agreement, at the lowest reasonable cost to Grantor that is consistent with good engineering practice; good utility practice; all applicable codes and standards, including without limitation the National Electrical Safety Code; and basic principles of fair and equitable cost allocation and rate structure that recognize the costs and benefits, including avoided operating, maintenance, and storm restoration cost savings, that result from having electric distribution facilities placed underground. Grantee expressly agrees that it will provide Grantor with all reasonably necessary information, including sufficient advance notice of any planned upgrades or "hardening" projects that Grantee plans to implement on its distribution facilities in the City, so that the City can undertake efforts to minimize its costs for any part or phase of its undergrounding project(s). This covenant is specifically intended to enable the City to avoid certain costs, including the costs for removal of existing facilities and compensation for the remaining net book value of existing facilities that would be increased if the Grantee were to replace existing facilities before the City is reasonably able to convert them to underground facilities.

(c) The Parties also agree to cooperate and coordinate with each other and with other providers of utility services in the City to facilitate the conversion of all utility-type facilities to underground facilities to be accomplished in an orderly and cost-effective manner.

(d) Grantee agrees to provide, upon request by the Grantor and at no cost to the Grantor, a non-binding or "ballpark" cost estimate of the cost and required contribution payment in aid of construction ("CIAC") for any underground project(s) proposed by the Grantor. Grantee further agrees to provide a "Binding Cost Estimate" for any underground construction or conversion project as requested by the Grantor at a reasonable charge sufficient to cover the costs for engineering and design of the proposed underground project; this charge shall be considered to be a deposit (the "engineering deposit") to cover the cost of engineering work necessary to accurately estimate the cost of a particular underground project, and shall be applied as a credit to the total cost of any project if the Grantor proceeds with such project. Any Binding Cost Estimate shall be good for a period of 180 days from the date on which it is delivered to the Grantor, and Grantee shall not increase the cost of the project by more than ten (10) percent from the amount of the Binding Cost Estimate.

(e) The Grantor shall have the right, or the Grantee may elect, to have the Grantor engage its own contractors to construct and install all or part of any proposed underground distribution facilities, provided that: (i) all such work meets the construction standards and requirements of the Grantee, including Grantee's right to conduct a final inspection and approval of such work; (ii) that Grantor's contractors are approved contractors of Grantee; and (iii) Grantee and Grantor have reasonably coordinated and agreed upon the timing, schedule, and mitigation of impacts on Grantee and Grantee's system associated with such work.

(f) Grantor hereby affirms that it recognizes that, as the conversion of Grantee's overhead facilities to underground facilities is completed and each section or area of underground electrical facilities becomes operational, those facilities will be owned by the Grantee, and, as such, Grantor hereby acknowledges it has no right and shall not direct the Grantee's means and methods of undergrounding, including overhead conversion to underground facilities or installing new underground facilities. Both Grantor and Grantee further recognize and affirm that Grantor's decisions on undergrounding of existing overhead facilities are based on economics and reliability, not aesthetics. Notwithstanding any other provision or term of this Franchise Agreement, with respect to any and all undergrounding of Grantee's Facilities that are driven, prioritized, or requested by Grantor for or related to aesthetic concerns, Grantor shall be fully responsible and liable for all costs and expenses related to such undergrounding work

Section 7. Payment in Lieu of Taxes. The City of Jacksonville Beach, its successors and assigns, shall pay to the City of Neptune Beach and its successors and assigns an amount that will equal $0.00302 per kilowatt-hour for all metered electrical energy sold during each calendar year of this agreement to all customers, including the City of Neptune Beach, within the corporate limits of the City of Neptune Beach. The aforementioned payment to the City of Neptune Beach by the Beaches Energy shall be made monthly on or before the last day of the calendar month immediately following the calendar month during which the sales occurred. Payment to the City of Neptune Beach shall not include any payment for kilowatt-hours used by streetlights for which service is billed under Beaches Energy's flat-rate charges for such lighting service, and no payment shall be made on sales or revenues collected by Beaches Energy for other electric companies, late charges, connection or reconnection charges, electric service installation charges, appliance repair charges, service charges, nor on sales tax collected on behalf of the State of Florida. Such payment shall be accepted by the City of Neptune Beach in lieu of any property, privilege, occupation, franchise, or other tax against the electrical distribution system situated in the City of Neptune Beach or the right or privilege of carrying on and conducting the business of selling and delivering electrical energy as contemplated hereunder. The remittances to the City of Neptune Beach shall be accompanied by a statement showing the amount of gross metered kilowatt-hours sold by Beaches Energy in the City of Neptune Beach. Beaches Energy shall keep proper records of its gross sales and revenues derived from the provision of electric service within the corporate limits of the City of Neptune Beach and such records shall be kept open to inspection at all reasonable times by the duly authorized representative of the City of Neptune Beach. Said authorized representatives are hereby given the right of access to and full authority to inspect, examine, audit, and verify such records relating to the sale of electrical energy within the corporate limits of the City of Neptune Beach.

The Parties expressly agree that the above-stated payment provisions have been freely bargained for and represent fair and just compensation relative to the fair rental value of the rights-of-way and the other consideration given by the Grantor to the Grantee pursuant to this Franchise Agreement. In recognition of the foregoing agreement, each Party, intending to be legally bound, agrees not to contest or seek to limit or change the amount of such fee provided for herein in any legal, regulatory, or legislative proceedings of any type whatsoever; provided, however, that if at any time during the term of this Franchise Agreement Grantor notifies Beaches Energy that it desires to impose an additional franchise fee in support of Grantor’s undergrounding project(s), which the Parties hereby acknowledge and agree that Beaches Energy will be entitled to pass along to Customers within the corporate boundaries of the City of Neptune Beach as a separate retail billing line item, the Parties will use good faith, reasonable efforts to negotiate amendments or supplements to this Franchise Agreement to provide therefor.

Section 8. Grantor's Obligations and Reserved Rights. As a further consideration, during the term of this Franchise Agreement or any extension thereof the Grantor agrees: (a) not to engage in the distribution and/or sale, in competition with the Grantee, of electric capacity and/or electric energy to any ultimate consumer of electric utility service (herein called a "retail customer") or to any electrical distribution system established solely to serve any retail customer formerly served by the Grantee, and (b) not to participate in any proceeding or contractual arrangement, the purpose or terms of which would be to obligate the Grantee to transmit and/or distribute, electric capacity and/or electric energy from any third party (or third parties) to any other retail customer's facility or facilities, provided that the City of Neptune Beach shall not be considered a "third party" or an "other retail customer" for purposes of this provision.

Nothing specified herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale transactions that are subject to the provisions of the Federal Power Act. The Grantor retains the right to generate and distribute electric power for its own use, subject to the requirements of Florida law, and the right to operate emergency generating facilities owned by the Grantor for purposes of serving critical facilities (e.g., nursing homes, hospitals, water and wastewater treatment plants, and similar facilities) during declared emergencies such as hurricanes or tropical storms.

Nothing herein shall prohibit the Grantor, if permitted by law, (i) from purchasing electric capacity and/or electric energy from any other person, or (ii) from seeking to have the Grantee transmit and/or distribute to any facility (or facilities) of the

Grantor electric capacity and/or electric energy purchased by the Grantor from any other person; provided, however, that before the Grantor elects to purchase electric capacity and/or electric energy from any other person, the Grantor shall notify the Grantee. Such notice shall include a summary of the specific rates, terms and conditions that have been offered by the other person and identify the Grantor's facilities to be served under the offer. The Grantee shall thereafter have 90 days to evaluate the offer and, if the Grantee offers rates, terms and conditions which are equal to or better than those offered by the other person, the Grantor shall be obligated to continue to purchase from the Grantee electric capacity and/or electric energy to serve the previously-identified facilities of the Grantor for a term no shorter than that offered by the other person, provided that Grantee shall ensure by all means necessary that such purchases by the Grantor shall be made at the rates offered by the Grantee for the term of such transaction, and provided further that, if for any reason the Grantee does not honor its obligation to serve the Grantor’s facilities at the rates offered by the Grantee for the term of the transaction, such failure shall entitle Grantor to terminate the transaction and purchase electric capacity and/or electric energy from another provider. If the Grantee does not agree to rates, terms and conditions which equal or better the other person's offer, then the Grantor shall be permitted and entitled to enter into the proposed transaction with the other person, and all of the terms and conditions of this Franchise Agreement shall remain in effect. In the event of a dispute as to whether the Grantee has offered rates, terms, and conditions what are equal to or better than those offered by the other person, it is the intent of the Parties that the determination of such dispute shall be made on an objective basis to the maximum extent possible. If the Parties are unable to agree, then the Parties agree to submit the dispute to binding arbitration pursuant to the arbitration protocols of the American Arbitration Association; the Parties will each bear their own costs in any such arbitration proceedings.

The Grantor may also, if permitted by law and in compliance with any applicable provisions of Grantee's tariffs, (i) generate renewable electricity at any facility or property owned by the Grantor for storage or utilization at that facility, property, or other Grantor facilities, operations or equipment; (ii) use renewable energy sources to generate electricity for use in demonstration projects or at the Grantor's facilities; (iii) engage in net metering programs in accordance with any applicable Grantee tariffs; and (iv) sell electricity to the Grantee or other wholesale purchaser in compliance with applicable rules and regulations controlling such transactions.

Section 9. Streetlight Facilities Installation and Maintenance. The Grantee shall provide streetlighting service and private lighting service pursuant to its tariffs as approved by the City Council of Jacksonville Beach. The Grantee commits to work toward converting its existing streetlighting and private lighting luminaires to Light Emitting Diode (LED) technology as expeditiously as possible, consistent with commercially reasonable principles in the best interests of all of Grantee's customers.

Section 10. Joint Use of Poles, Conduits, and Similar Facilities. The Grantee shall have the right to enter into such contracts or agreements concerning the joint use of, or attachment to, its poles, conduits, or other facilities for the furnishing of telephone, telegraph, cable television, broadband, internet, and similar or other services as it may in its discretion desire. No such joint use or attachment agreements shall be construed or applied to limit or restrict the Grantor's plans to convert existing utility facilities from overhead to underground facilities and service, except that the Grantee hereby expressly disclaims any promise to the Grantor that undergrounding will eliminate all above ground facilities that are subject to joint use or other attachment agreements. The Grantee agrees to use its reasonable efforts to cause counterparties under its joint use or other attachment agreements to remove facilities from existing poles after undergrounding of the Grantee's Facilities, but nothing in this Section 10 or otherwise is a guarantee or promise that the Grantee will secure such counterparties' agreement and cooperation. Any and all income derived from said joint use or other attachment agreements shall accrue solely and exclusively to the Grantee; provided, however, nothing herein shall be construed to prevent either the granting of a franchise for any such services by the City of Neptune Beach to any providers thereof or the retention of all income from such franchises by the Grantor.

Section 11. Public Meetings in Advance of Approval of a Sale, if any, of Beaches Energy's Electric System. Prior to the City Council of the City of Jacksonville Beach, Florida approving the sale of the Beaches Energy electric system, if such event ever were proposed or anticipated to occur, the City Council of Neptune Beach, Florida must be given the opportunity to hold a meeting to address such potential sale of the Beaches Energy electric system, with representatives of Beaches Energy Services present to present information and answer questions. In addition to the foregoing sentence, the City Council of the City of Jacksonville Beach, Florida shall also hold a meeting so that Neptune Beach can send representatives and ask questions of Grantee in a public meeting prior to the meeting at which a final decision to sell the Beaches Energy electric system will be decided.

Section 12. Default by Grantee. Failure on the part of the Grantee to comply in any material respect with any of the provisions of this Franchise Agreement shall be grounds for forfeiture of Grantee's rights and privileges hereunder, but no such forfeiture shall take effect if the reasonableness or propriety thereof is protested by the Grantee until there is final determination (after the expiration or exhaustion of all rights of appeal by either Party) by a court of competent jurisdiction that the Grantee has failed to comply in a material respect with any of the provisions, terms, or requirements of this Franchise Agreement, and the Grantee shall have six months after such final determination to cure the default before a forfeiture shall result. The Grantor, in its sole discretion, may grant additional time to the Grantee for compliance.

Section 13. Default by Grantor. Failure on the part of the Grantor to comply in substantial respect with any of the provisions of this Franchise Agreement, including but not limited to: (a) denying the Grantee use of public rights-of-way for reasons other than unreasonable interference with vehicular (including motor and bicycle) or pedestrian traffic; (b) imposing conditions for use of public rights-of-way contrary to Florida law or the terms and conditions of this Franchise Agreement; or (c) unreasonable delay in issuing the Grantee a use permit, if any, to construct its facilities in public rights-of-way, shall constitute breach of this Franchise Agreement and entitle the Grantee to withhold a portion of the payments provided for in Section 7 hereof, such portion being demonstrably commensurate with any cost or loss suffered by Grantee as a result of the Grantor's action, until such time as a use permit is issued or a court of competent jurisdiction has reached a final determination, after the expiration or exhaustion of all rights of appeal by either Party, in the matter. The Grantor recognizes and agrees that nothing in this Franchise Agreement constitutes or shall be deemed to constitute a waiver of the Grantee's delegated sovereign right of condemnation and that the Grantee, in its sole discretion, may exercise such right as may be provided by law. The Grantee recognizes and agrees that nothing in this Franchise Agreement constitutes or shall be deemed to constitute a waiver of the Grantor's delegated sovereign right of condemnation and that the Grantor, in its sole discretion, may exercise such right as may be provided by law, provided that the Grantor shall not exercise such right so as to violate the Grantor's covenant, set forth in Section 8 hereof, not to compete against the Grantee in the distribution and/or sale of electricity to ultimate consumers during the term of this Franchise Agreement.

Section 14. Change in Law. If as a direct or indirect consequence of any legislative, regulatory or other action by the United States of America or the State of Florida (or any department, agency, authority, instrumentality, or political subdivision of either of them having jurisdiction), any person is permitted to provide electric service within the incorporated areas of the Grantor to a Customer then being served by the Grantee, or to any new applicant for electric service within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve, and the Grantee determines that its obligations hereunder place it at a competitive disadvantage with respect to such other person, the Grantee may, at any time after the taking of such action, terminate this Franchise Agreement if such competitive disadvantage is not remedied to the reasonable satisfaction of the Grantee within the time period provided hereafter. The Grantee shall give the Grantor at least 90 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of the obligations of the Grantee hereunder that cause the competitive disadvantage. The Grantee and the Grantor shall then have 90 days in which to negotiate an amendment to this Franchise Agreement that eliminates such competitive disadvantage, as determined in the reasonable discretion of the Grantee. If such competitive disadvantage is not so eliminated within said time period, the Grantee may terminate this Franchise Agreement by delivering written notice to the Grantor's Clerk and termination shall take effect on the date of delivery of such notice.

Section 15. Audit; Accuracy of Billing. (a) The Grantor may, upon reasonable notice and within 90 days after the end of each fiscal year of the Grantor, at the Grantor's expense, examine and audit the records of the Grantee relating directly to the calculation of the Franchise Fee payments for the five years preceding the end of such fiscal year. Such examination shall be during normal business hours at the Grantee's office where such records are maintained, or as otherwise mutually agreed in writing by the Parties. Records not prepared by the Grantee in the ordinary course of business may be provided at the Grantor's expense and as the Grantor and the Grantee may agree in writing. Information identifying the Grantee's Customers by name or their electric consumption shall not be taken from the Grantee's premises. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Grantor, shall be reported to the Grantee. The Grantor’s right to examine the records of the Grantee in accordance with this Section shall not be conducted by any third party employed by the Grantor whose fee, in whole or part, for conducting such audit is contingent on findings of the audit. This provision shall survive termination of this Franchise Agreement.

(b) Grantor waives, settles and bars all claims relating in any way to the amounts paid by the Grantee under the terms embodied in the 2002 Electric Agreement, or amounts allegedly owed by Grantee to Grantor as of the effective date of this Ordinance, provided that Grantee pays all amounts due and owing to Grantor as of the effective date of this Ordinance, including all amounts due and owing pursuant to any audit then in process.

Section 16. Severability. The provisions of this Franchise Agreement are interdependent upon one another, and if any of the provisions of this Franchise Agreement are found or adjudged by a court of competent jurisdiction (after the expiration of all rights of appeal) to be invalid, illegal, void, or of no effect, such finding or adjudication shall not affect the validity of the remaining provisions for a period of ninety (90) days, during which period the Parties will negotiate in good faith to amend this Franchise Agreement so as to restore to the maximum extent permissible, the original economic bargain embodied in this ordinance. If an agreement to amend the ordinance is not reached at the end of such ninety (90) day period, either party may provide notice to the other declaring this entire Franchise Agreement to be null and void and of no force or effect; provided, however, that in the event that this Franchise Agreement is terminated by either Party pursuant to this provision of this Franchise Agreement, the Grantee expressly recognizes and agrees that the Grantor's Right to Purchase pursuant to Section 2(b) shall survive any such termination and thereupon immediately vest in Grantor.

Section 17. Entire Agreement. This Franchise Agreement is intended to constitute the sole and entire agreement between the Grantor and Grantee with respect to the subject matter hereof and correctly sets forth the rights, duties, and obligations of each of the other as of its date. Any prior agreements, promises, negotiations, or representations with respect to the subject matter hereof not expressly set forth in this Franchise Agreement are of no force or effect, and this supersedes all prior drafts and verbal or written agreements, commitments, or understandings with respect to the subject matter hereof, which shall not be used to vary or contradict the expressed terms herein. Both Parties have been represented by counsel of their choosing with regard to this Franchise Agreement. The Parties agree expressly that the Franchise Fee provisions set forth herein were freely bargained for and represent fair consideration for the terms provided by the Grantor to Grantee under this Franchise Agreement and that each Party agrees not to contest the amount of the Franchise Fee provided herein, excepting any changes resulting from the application of the Favored Nations provisions in Section 11 hereof.

Section 18. Certain Definitions. As used herein “person” means an individual, a partnership, a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint venture, a governmental authority, or any other entity of whatever nature.

Section 19. Successors and Assigns; Assignment. Whenever in this Franchise Agreement either the City of Neptune Beach or the City of Jacksonville Beach (or Beaches Energy Services) is named or referred to, it shall be deemed and understood to include the respective successor, successors, or assigns of either Party, and all rights, privileges and obligations herein conferred shall bind and inure to the benefit of such successor, successors, or assigns of the Grantor or of the Grantee. Any assignment by either Party shall be effective only upon the written consent of the non-assigning Party, which consent shall not be unreasonably withheld or delayed.

Section 20. Modification. It is further understood that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith and approved by the Grantor’s City Council.

Section 21. Governing Laws; Compliance with Federal, State, and Local Laws. This Franchise Agreement shall be governed and construed by the applicable laws of the United States, State of Florida, and the Codes and Ordinances of the Grantor to the extent not preempted. The Parties agree to comply with and observe all applicable Federal, State, and valid and non-preempted local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

Section 22. Preliminary Dispute Resolution. The Parties agree that it is in each of their respective best interests to avoid costly litigation or arbitration as a means of resolving disputes which may arise hereunder. Accordingly, the Parties agree that in the event of any dispute between the Parties, senior management of each Party will engage in an in-person meeting to attempt to resolve any dispute within thirty (30) days of notification of the dispute or as mutually agreed to by the Parties; the Parties further agree to continue discussions toward resolving the dispute for a reasonable time relative to the nature and complexity of the dispute. Such meeting and discussions shall be required prior filing an action in an appropriate court, unless either Party determines that it will be irreparably harmed as a result of such delay.

Section 23. Venue. In the event that any legal proceeding is brought to enforce the terms of this Franchise Agreement, it shall be brought exclusively in Duval County, Florida, or, if applicable, in the U.S. District Court for the Northern District of Florida.

Section 24. Notices. Except in exigent circumstances, and except as may otherwise be specifically provided for in this Franchise Agreement, all notices by either party shall be made by United States Certified Mail, return receipt requested, or via a nationally recognized overnight courier service. Any notice given by facsimile or email is deemed to be supplementary, and does not alone constitute notice hereunder, unless acknowledged as received by the other party. All notices shall be addressed as follows:

To the City:	To Grantee:
City of Neptune Beach City Hall 116 First Street Neptune Beach, Florida 32266 Attn: City Manager	Beaches Energy Services City Hall 11 North 3rd Street Jacksonville Beach, Florida 32250 Attn: Utilities Director/City Manager
Copy to:	Copy to:
City of Neptune Beach City Hall 116 First Street Neptune Beach, Florida 32266 Attn: City Attorney	Beaches Energy Services City Hall 11 North 3rd Street Jacksonville Beach, Florida 32250 Attn: City Attorney

Any changes to the above shall be in writing and provided to the other Party as soon as practicable.

Section 25. Repealer; Surrender of Existing Franchise. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict. As a further consideration for the granting of the franchise and associated rights and privileges granted hereby, the Grantee surrenders all franchises and associated rights and privileges heretofore granted by the City of Neptune Beach or the State of Florida for any of the purposes stated in Section 1 or any other sections of this Franchise Agreement and now enjoyed by Grantee in the City of Neptune Beach; provided, however, that such surrender shall not be effective unless and until: (a) this Ordinance shall be finally adopted by the City, (b) the Franchise Agreement created and established hereby shall be accepted by the Grantee, and (c) the Franchise Agreement and associated rights and privileges granted hereby shall be validly in force and effect pursuant to such adoption by the City and acceptance by the Grantee.

Section 26. Acceptance of Franchise Agreement; Effective Date. This Ordinance shall be effective to create the Grantee's right to accept the Franchise

Agreement under the terms and conditions set forth herein as of the date of its adoption by the City. As a condition precedent to the full effectiveness of the Franchise Agreement embodied in this Ordinance, the Grantee shall file its acceptance hereof with the Grantor's Clerk within 30 days of the Grantor's adoption of this Ordinance. The date upon which the Grantee files such acceptance shall be the "Effective Date" of the Franchise Agreement as between the City of Neptune Beach and the City of Jacksonville Beach, d/b/a Beaches Energy Services.

VOTE RESULTS OF FIRST READING AND FIRST READING:

Mayor Corrine Bylund
Vice Mayor Nia Livingston
Councilor Tim Horvath
Councilor Josh Messinger
Councilor Brent Rogers

Passed at First Reading this ___ day of_______, 2025

VOTE RESULTS OF SECOND READING AND FINAL READING:

Mayor Corrine Bylund
Vice Mayor Nia Livingston
Councilor Tim Horvath
Councilor Josh Messinger
Councilor Brent Rogers

Passed at Second Reading this __ day of ________, 2026.

CITY OF NEPTUNE BEACH

______________________________	______________________________
Corrine A. Bylund, Mayor	Richard Pike, City Manager
ATTEST:	Approved as to form and legal sufficiency:
______________________________	______________________________
Catherine Ponson, City Clerk	Paul Waters, City Attorney

Date Signed

CITY OF JACKSONVILLE BEACH

Christine Hoffman, Mayor

ATTEST:

Molly Alleger, City Clerk

Date Signed

Michael Staffopoulos, City Manager

Approved as to form and legal sufficiency:

David Migut, City Attorney

Red-lined Version

CITY OF NEPTUNE BEACH DRAFT – JLF ~~2/7~~8/2 + CONB 10./7 - ~~/2025 + RSW 3/23/2025~~

ORDINANCE NO. ____________________

AN ORDINANCE GRANTING TO THE CITY OF JACKSONVILLE BEACH, FLORIDA, DOING BUSINESS AS BEACHES ENERGY SERVICES, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO OPERATE AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF NEPTUNE BEACH AND TO CONSTRUCT, MAINTAIN, OPERATE AND EXTEND ELECTRIC TRANSMISSION AND DISTRIBUTION LINES IN THE PUBLIC RIGHTS-OF-WAY OF SAID CITY; PROVIDING THE TERMS AND CONDITIONS OF SUCH FRANCHISE; ~~PROVIDING FOR THE CITY'S RIGHT TO PURCHASE THE GRANTEE'S ELECTRIC FACILITIES AND RELATED PROPERTY UNDER SPECIFIED CIRCUMSTANCES;~~ PROVIDING TERMS AND CONDITIONS FOR THE UNDERGROUNDING OF ELECTRIC FACILITIES WITHIN THE CITY OF NEPTUNE BEACH; PROVIDING FOR MONTHLY FRANCHISE FEE PAYMENTS TO THE CITY OF NEPTUNE BEACH; PROVIDING FOR EITHER PARTY'S RIGHT TO TERMINATE THE FRANCHISE AGREEMENT CREATED HEREBY UNDER SPECIFIED CIRCUMSTANCES; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS IN OTHER CITY ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Neptune Beach ("Neptune Beach" or "Grantor") finds it in the public interest to ensure that all areas within its corporate limits are adequately provided with high-quality and reliable electric service; and

WHEREAS, the City of Neptune Beach and the City of Jacksonville Beach, d/b/a Beaches Energy Services ("Beaches Energy" or "Grantee") are parties to that certain ELECTRIC SERVICE AGREEMENT Between CITY OF JACKSONVILLE

BEACH, FLORIDA and CITY OF NEPTUNE BEACH, FLORIDA, dated and effective as of October 1, 2002 ("2002 Electric Agreement"); and

WHEREAS, Neptune Beach has determined that the public health, safety, and welfare will be promoted and served by converting the existing overhead electric facilities within the corporate limits of Neptune Beach to underground facilities to the maximum extent feasible; and

WHEREAS, Neptune Beach and Beaches Energy (each a "Party" and collectively, the "Parties") have negotiated this franchise agreement ("Franchise Agreement") to supersede and replace the 2002 Electric Agreement and to confirm the Parties' mutually agreed-upon rights and responsibilities applicable to Beaches Energy's provision of electric service to retail customers within Neptune Beach; and

WHEREAS, the City of Neptune Beach finds it in the public interest to retain control over the use of public rights-of-way by providers of electricity and other utilities to protect the public health, safety, and welfare, to ensure against interference with the public convenience, to promote aesthetic considerations, to promote planned and efficient use of limited right-of-way space, and to protect the public investment in and use of right-of-way property; and

WHEREAS, the City of Neptune Beach finds that entering into the franchise agreement created hereby is the best means of assuring that the above-described interests of the City, its inhabitants, and its individual and corporate citizens are promoted and protected;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA:

Section 1. Grant of Electric Franchise. In consideration of the mutual benefits that will accrue to the City of Neptune Beach, a municipal corporation of the State of Florida, sometimes referred to herein as the Grantor or as the "City," and the inhabitants and citizens thereof, on the one hand, and to the City of Jacksonville Beach, doing business as Beaches Energy Services, a municipal corporation of the State of Florida, its successors and assigns, sometimes referred to herein as the Grantee or "Beaches Energy," on the other hand, the City of Neptune Beach hereby gives and grants to the Grantee the nonexclusive right, authority, privilege, and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate, and conduct in said City of Neptune Beach's public rights-of-way a system of overhead and underground electric light and power transmission and distribution facilities, including, without limitation, conduits, poles, wires, transformers, transformation substations, meters, transmission and distribution lines, and all other facilities installed in conjunction with or ancillary to all of the Grantee's operations and such other utility or other facilities of Grantee to provide service of any kind or nature to Customers, as hereinafter defined, including, without limitation, broadband, communications, dark fiber, natural gas, but not then in direct competition with utility services offered by City of Neptune Beach (hereinafter called "Grantee's Facilities" or "Facilities"), for the purpose of supplying electricity, ~~and~~ other electricity-related services incidental thereto, and other utilities to the Grantor and its successors and assigns, to the inhabitants of the City and to business entities operating therein, and to persons and business entities beyond the corporate limits of the Grantor who purchase electric service from the Grantee. (Collectively, all such entities that purchase electric service or other utilities services from Grantee are sometimes referred to herein as "Customers.") As used in the preceding sentence, the term "other electricity-related services" means Grantee's facility-to-facility data capabilities over the lines to identify faults, load information, and other data necessary or helpful to the Grantee's provision of electric service. As used herein, the terms "public rights-of-way" and "Grantor's public rights-of-way" shall mean property or any interest therein that is acquired for or devoted to a public road or alleyway, including but not limited to, roadways, highways, streets, or bridges for which the Grantor is the authority and to which the Grantor may lawfully grant access pursuant to applicable law, and includes the surface, the air space over the surface, and the area below the surface of such places. The rights and privileges granted hereby do not extend to any other public places, of any type whatsoever, that are administered by the Grantor but not located in any space within the specific definition of the Grantor's public rights-of-way set forth hereinabove, or to any similar places. The determination of whether a public place or public space is part of Grantor's public rights-of-way is within the sole and sound discretion of the Grantor and, except as to whatever statutory rights the Grantee may have to install its Facilities in certain road rights-of-way, which may be determined by a court of competent jurisdiction, as necessary, the Grantor's determination may not be challenged in any way in any venue.

This Ordinance and the mutual agreements created by this Ordinance and the Grantee's acceptance hereof are referred to herein as the "Franchise Agreement." As appropriate to the context, each of the Grantor and Grantee may be referred to herein individually as a "Party," and they may be referred to collectively as the "Parties" to this Franchise Agreement. The rights and privileges granted hereby are expressly subject to all of the provisions and limitations contained in this Franchise Agreement, including, expressly but without limitation, the Grantor's reserved Right to Purchase established herein and all provisions relating to the Grantor's right and ability to exercise that Right to Purchase as provided in various sections of this Franchise Agreement.

Section 2. Term & Termination~~; Grantor's Right to Purchase Under Defined Circumstances~~. ~~(a) Subject to the Grantor's Right to Purchase the Grantee's Facilities in the City pursuant to this Section 2 hereof (hereinafter the Grantor's "Right to Purchase"), t~~ The franchise and related rights and privileges granted by this Ordinance shall exist and continue for a period of thirty (30) years from the Effective Date of this Franchise Agreement. In the event that the Franchise Agreement has not otherwise been terminated or replaced by a new franchise agreement before the thirtieth anniversary of its Effective Date, then the Franchise Agreement shall continue in effect on a year-to-year basis until terminated pursuant to the terms hereof.

~~(b) As a condition precedent to the effectiveness of this Franchise Agreement, Grantor does hereby reserve and the Grantee hereby gives and grants to the said Grantor the irrevocable right to purchase the Grantee's Facilities and Related Property, as defined below, or such part of such Facilities and Related Property as the Grantor may desire, upon the occurrence of eitherany of the following dates or occurrence of events:~~

~~i. Any announcement or declaration of intent by the Grantee to sell its electric system and facilities serving Neptune Beach, or its entire electric system, to any other entity, including any other electric utilityUpon and within one calendar year following the tenth anniversary of the Effective Date of this Franchise Agreement; or~~

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~~ii. Any announcement, declaration, or initiation of legal process the result of which would be the abandonment of the Grantee's Facilities serving Neptune BeachUpon and within one calendar year following the twentieth anniversary of the Effective Date of this Franchise Agreement.;~~

~~iii. Any time at or after the thirtieth anniversary of the Effective Date of this Franchise Agreement;~~

~~iv. At any time when Beaches Energy announces or indicates its intention to sell its electric distribution facilities located in the City to any entity, including any other electric utility; or~~

~~v. Any time at or after the occurrence of certain potential events or termination of this Franchise Agreement pursuant to Sections 11, 12, 14, or 16 hereof.~~

~~For clarity, the Grantor's Right to Purchase is a right that may be exercised by the Grantor giving notice to the Grantee, within the time periods specified above, of its intent to proceed with the purchase pursuant to the Grantor's Right to Purchase. For further clarity, the Grantor's Right to Purchase under the circumstances defined above shall survive any termination of this Franchise Agreement for any reason.~~

~~These provisions do not require that the purchase be completed within any particular such time periods, provided, however, that beginning within a reasonable time after the Grantor delivers such written notice to Grantee, the Grantor will take material steps to purchase the Grantee's Facilities in accordance with this Section 2(b). With respect to the rights granted pursuant to Sections 2(b)(i) and 2(b)(ii) above, if Grantor does not elect to exercise its Right to Purchase within one calendar year following either respective anniversary, then the Grantor's Right to Purchase pursuant to those~~

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~~specified Sections 2(b)(i) or 2(b)(ii) shall expire, but such expiration shall in no way impact Grantor's Right to Purchase pursuant to any other provisions hereof. Nothing herein shall require the Grantor to acquire all of the Grantee's Facilities and Related Property.~~

~~The Right to Purchase reserved by Grantor and granted by Grantee hereby is the right to purchase the Grantee's Facilities, as defined above, and related property of the Grantee used in operating its electric system within the City. Such related property, hereinafter referred to as the Grantee's "Related Property," includes all of the Grantee's property and property interests other than its Facilities, as defined above, including all real property, interests in real property, any improvements or fixtures on such real property, vehicles, equipment, materials, and supplies, within the Grantor's corporate limits subject to this Franchise Agreement used under or in connection with the franchise hereby granted. The amount to be paid shall include the reproduction cost of the property sought to be acquired, less depreciation, together with the going concern value and severance costs; provided further, that if the Grantor exercises its Right to Purchase because the Grantee plans to sell its Facilities to another utility, then the amount to be paid by the Grantor shall also be reduced by any remaining unamortized amount of Contributions in Aid of Construction paid by the Grantor to the Grantee for any underground facilities installations (whether conversions or new installations). All closing costs of such purchase shall be borne by Grantor. If the Grantor and Grantee are unable to agree upon the amount to be paid, the amount shall be determined in a declaratory action which may be instituted by either Grantor or Grantee. Any such declaratory action shall be brought in a court~~

~~of competent jurisdiction in Duval County, Florida. Each party shall bear its own experts' and attorneys' fees and costs incurred in connection with such declaratory action.~~

Section 3. Obligation to Supply Electrical Energy; Reliability; Force Majeure. Beaches Energy shall, at its sole cost and expense, furnish and provide reasonably uninterrupted service sufficient to meet the requirements of its ~~c~~Customers in the City of Neptune Beach; provided, however, that Beaches Energy shall not be liable or responsible for interruption of service or voltage fluctuations that result from fire, strike, riot, vandalism, explosion, failure of defective equipment or materials, flood, windstorm including named tropical storm systems and tornadoes, lightning, accident, acts of God, acts of the public enemy, any act by the supplier of bulk electrical energy to Beaches Energy, or other acts beyond the control of Beaches Energy, but Beaches Energy shall be prompt and diligent in removing and overcoming the cause or causes of any such interruptions to the extent reasonably practicable. Nothing herein contained shall be construed as permitting Beaches Energy to refuse to deliver electrical energy to Customers in the City of Neptune Beach after the cause of any interruption has been removed.

Beaches Energy does not guarantee that the supply of electrical energy pursuant to this Franchise Agreement shall be free from interruption occasioned by any of the causes heretofore mentioned, and it is agreed that such interruptions shall not constitute a breach of this Franchise Agreement on the part of Beaches Energy. With respect to the distribution of electrical energy, Beaches Energy shall not discriminate among its ~~customers~~Customers, including the City of Neptune Beach and ~~c~~Customers located therein and also including ~~c~~Customers located in other parts of Grantee's service area outside the city limits of the City of Jacksonville Beach, and all services rendered hereunder shall be on an equal basis.

Unless otherwise expressly agreed to in writing by the Parties, no termination of this Franchise Agreement shall relieve either the Grantee or any of its successors or assigns of the Grantee's obligation to provide reasonably reliable electric service at lawful rates.

Section 4. Installation, Operation and Maintenance of Facilities. The Facilities of the Grantee shall be installed, located or relocated, erected, maintained, and operated in accordance with all laws, rules, and regulations applicable to the Grantee and the operation of its electric system, including without limitation ordinances and rules and regulations duly adopted and in effect within the City of Neptune Beach, provided that such ordinances, rules, and regulations shall be non-discriminatory and shall not make any adverse distinction between Grantee an~~y~~d any other person in intent, effect, and application. To avoid conflicts with traffic, the location or relocation of the Grantee's Facilities shall be made in accordance with the Grantor's reasonable rules and regulations with reference to the placing and maintaining of the Grantee's Facilities in, under, upon, along, over and across said public rights-of-way; provided, however, that such rules or regulations: (a) shall not prohibit nor limit the exercise of the Grantee's right to use said public rights-of-way for reasons other than unreasonable interference with vehicular (including bicycles) and pedestrian traffic, (b) shall not unreasonably interfere with the Grantee's ability to furnish reasonably sufficient, adequate and efficient electric service to all of its Customers, and (c) shall not require the relocation of any of the

Grantee's Facilities installed before or after the Effective Date (as defined in Section 26 herein) of this Franchise Agreement in public rights-of-way unless or until widening or otherwise changing the configuration of the paved portion of any public right-of-way used by motor vehicles causes such installed Facilities to unreasonably interfere with motor vehicular traffic. Any relocation of Grantee's Facilities due to such widening or changes in the configuration of the paved portions of public rights-of-way by the Grantor, ~~-~~shall be accomplished at the sole expense of the Grantor.~~; provided, however, i~~If such relocations of the Grantee's Facilities are due to widening or changes in the configurations of public rights-of-way that are owned by~~the decision of authority(ies)~~ FDOT or the City of Jacksonville~~other than the Grantor~~, such relocation shall be made by the Grantee at its sole cost and expense.~~; provided further, however, that, relocation of Grantee's Facilities made necessary, by FDOT or otherwise, due to a decision to relocate the current median-placed-street lights on US Highway AIA from Atlantic Boulevard to the southern corporate limits of the City of Neptune Beach shall be accomplished at the sole expense of the Grantor, unless otherwise agreed by the Parties. The Parties hereby acknowledge their mutual intent to coordinate on the relocation of such currently median-placed-street lights.~~ The FDOT owns the median-placed street lights on State Highway A1A from Atlantic Boulevard to the southern corporate limits of the City of Neptune Beach. If a decision by the FDOT requires the relocation of part or all of the existing median-placed street lights, and if such relocation of street light facilities necessitates the relocation of any of Grantee's Facilities, Grantor and Grantee agree that such relocation of Grantee's Facilities shall be accomplished at the sole expense of FDOT. Grantor and Grantee further agree to coordinate and cooperate, to the maximum extent possible, to ensure that such relocation of Grantee's Facilities is accomplished at the sole expense of FDOT. In the event that FDOT cannot be required to bear the expense of such relocation of Grantee's Facilities, then Grantor and Grantee will negotiate a mutually acceptable resolution of all issues relating to the relocation of the Grantee's Facilities. If the relocation of the median-placed street lights is the result of a request by the Grantor, then the relocation of Grantee's Facilities shall be accomplished at the sole expense of the Grantor. The Grantor hereby agrees that for all decisions it makes as to widening or changes in the configuration of the paved portions of public rights-of-way that may have an impact on the Grantee, the Grantor shall (x) use reasonable efforts to minimize impacts on the Grantee and (y) reasonably communicate with the Grantee in advance of its final decision so that the Grantee has the right to evaluate the proposed decision of the Grantor and provider feedback to the Grantor on such proposed decision. Such rules and regulations shall recognize that above-grade Facilities of the Grantee installed after the Effective Date hereof should be installed near the outer boundaries of the public rights-of-way to the extent possible, and such installation shall be consistent with the Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.

The Grantee's rights to operate its Facilities are and shall remain subject to all applicable provisions of the Code of the City of Neptune Beach, all applicable and valid rules and regulations of the City of Neptune Beach, and all applicable laws, rules, and regulations of Duval County, the State of Florida, and the United States, as such laws, rules and regulations may be amended from time to time.

When any portion of a public right-of-way is excavated by the Grantee in the location or relocation of any of its Facilities, the portion of the public right-of-way so excavated shall within a reasonable time be replaced by the Grantee at its expense and in as good condition as it was at the time of such excavation. Nothing in this Franchise Agreement shall limit any entitlement or other right that the Grantee has to receive reimbursement of its costs from persons other than the Grantor.

Section 5. Indemnity. The Grantor shall in no way be liable or responsible for any accident or damage that may occur in the construction, location, relocation, operation, or maintenance by the Grantee of its Facilities hereunder due to Grantee's negligence or other misconduct, and the acceptance of this Franchise Agreement shall be deemed an agreement on the part of the Grantee to indemnify the Grantor and hold it harmless against any and all liability, loss, cost, damage or expense which may accrue to the Grantor by reason of the negligence, or other misconduct of the Grantee in the construction, location, relocation, operation, or maintenance of the Facilities of Grantee's electric system subject to this Franchise Agreement. Notwithstanding the foregoing in this Section 5, the Grantee's indemnification and hold harmless obligations to the Grantor shall be limited as the Grantee's liability is limited by section 768.28, Florida Statutes, and no part of this Franchise Agreement is intended to be a waiver of any rights of sovereign immunity that the Grantee may possess or assert under applicable law.

Section 6. Underground Electric Facilities. (a) To promote the public health, safety, and welfare of the inhabitants of the City of Neptune Beach and of all persons and entities who live, work, and conduct their business therein, and subject to the terms and conditions of this Franchise Agreement, Grantor plans to undertake the conversion of all overhead utility facilities within the Grantor's corporate limits to underground facilities to the ~~maximum~~ extent technically and economically feasible, and Grantee will communicate regularly, and otherwise as requested by Grantor, on the status of its related undergrounding plans~~as expeditiously as possible~~. The utility facilities to be converted include the Grantee's electrical distribution facilities and all other overhead utility facilities, including telecommunications, cable television, broadband, internet, fiber, and similar facilities, that are presently installed using overhead facilities and equipment; provided, however, that Grantee takes no responsibility or liability for the overhead utilities facilities of any utility provider other than Grantee.

(b) In the public interest, and as consideration for this Franchise Agreement, Grantee agrees that it will cooperate in good faith with Grantor to facilitate Grantor's plan to complete its contemplated undergrounding project(s), subject to the terms and conditions of this Franchise Agreement, at the lowest reasonable cost to Grantor that is consistent with good engineering practice; good utility practice; all applicable codes and standards, including without limitation the National Electrical Safety Code; and basic principles of fair and equitable cost allocation and rate structure that recognize the costs and benefits, including avoided operating, maintenance, and storm restoration cost savings, that result from having electric distribution facilities placed underground. Grantee expressly agrees that it will provide Grantor with all reasonably necessary information, including sufficient advance notice of any planned upgrades or "hardening" projects that Grantee plans to implement on its distribution facilities in the City, ~~to enable~~ so that the City can undertake efforts to minimize its costs for any part or phase of its undergrounding project(s). This covenant is specifically intended to enable the City to avoid certain costs, including the costs for removal of existing facilities and compensation for the remaining net book value of existing facilities that would be increased if the Grantee were to replace existing facilities before the City is reasonably able to convert them to underground facilities.

(c) The Parties also agree to cooperate and coordinate with each other and with other providers of utility services in the City to ~~ensure that~~facilitate the conversion of all utility-type facilities to underground facilities ~~is~~ to be accomplished in an orderly and cost-effective manner.

(d) Grantee agrees to provide, upon request by the Grantor and at no cost to the Grantor, a non-binding or "ballpark" cost estimate of the cost and required contribution payment in aid of construction ("CIAC") for any underground project(s) proposed by the Grantor. Grantee further agrees to provide a "Binding Cost Estimate" for any underground construction or conversion project as requested by the Grantor at a reasonable charge sufficient to cover the costs for engineering and design of the proposed underground project; this charge shall be considered to be a deposit (the "engineering deposit") to cover the cost of engineering work necessary to accurately estimate the cost of a particular underground project, and shall be applied as a credit to the total cost of any project if the Grantor proceeds with such project. Any Binding Cost Estimate shall be good for a period of 180 days from the date on which it is delivered to the Grantor, and Grantee shall not increase the cost of the project by more than ten (10) percent from the amount of the Binding Cost Estimate.

(e) The Grantor shall have the right, or the Grantee may elect, to have the Grantor ~~to~~ engage its own contractors to construct and install all or part of any proposed underground distribution facilities, provided that: (i) all such work meets the construction standards and requirements of the Grantee, including Grantee's right to conduct a final inspection and approval of such work~~,~~; ~~and~~ (ii) that Grantor's contractors are approved contractors of Grantee; and (iii) Grantee and Grantor have reasonably coordinated and agreed upon the timing, schedule, and mitigation of impacts on Grantee and Grantee's system associated with such work. ~~If Grantee elects to have the Grantor perform any underground conversion project, the Parties may, but are not required to, negotiate to have any Contribution in Aid of Construction ("CIAC") required for such project recovered by a separate charge on Grantor's bills to customers in Neptune Beach.~~

(f) Grantor hereby affirms that it recognizes that, as the conversion of Grantee's overhead facilities to underground facilities is completed and each section or area of underground electrical facilities becomes operational, those facilities will be owned by the Grantee, and, as such, Grantor hereby acknowledges it has no right and shall not direct the Grantee's means and methods of undergrounding, including overhead conversion to underground facilities or installing new underground facilities. Both Grantor and Grantee further recognize and affirm that Grantor's decisions on undergrounding of existing overhead facilities are based on economics and reliability, not aesthetics. Notwithstanding any other provision or term of this Franchise Agreement, with respect to any and all undergrounding of Grantee's Facilities that are driven, prioritized, or requested by Grantor for or related to aesthetic concerns, Grantor shall be fully responsible and liable for all costs and expenses related to such undergrounding work ~~such underground facilities will be part of Grantee's Facilities that the Grantor would have the right to acquire pursuant to its Right to Purchase as set forth herein, in the event that the Grantor exercises its Right to Purchase; provided, that if the Grantor exercises its Right to Purchase because the Grantee plans to sell its Facilities to another utility, then the amount to be paid by the Grantor shall also be reduced by any remaining unamortized amount of CIACs paid by the Grantor to the Grantee for any underground facilities installations (whether conversions or new underground facilities installations).~~ .

Section 7. Payment in Lieu of Taxes. The City of Jacksonville Beach, its successors and assigns, shall pay to the City of Neptune Beach and its successors and assigns an amount that will equal $0.00302 per kilowatt-hour for all metered electrical energy sold during each calendar year of this agreement to all customers, including the City of Neptune Beach, within the corporate limits of the City of Neptune Beach. The aforementioned payment to the City of Neptune Beach by the ~~City of Jacksonville~~ Beaches Energy shall be made monthly on or before the last day of the calendar month immediately following the calendar month during which the sales occurred. Payment to the City of Neptune Beach shall not include any payment for kilowatt-hours used by streetlights for which service is billed under ~~Jacksonville~~ Beache's Energy's flat-rate charges for such lighting service, and no payment shall be made on sales or revenues collected by ~~the City of Jacksonville~~ Beaches Energy for other electric companies, late charges, connection or reconnection charges, electric service installation charges, appliance repair charges, service charges, nor on sales tax collected on behalf of the

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State of Florida. Such payment shall be accepted by the City of Neptune Beach in lieu of any property, privilege, occupation, franchise, or other tax against the electrical distribution system situated in the City of Neptune Beach or the right or privilege of carrying on and conducting the business of selling and delivering electrical energy as contemplated hereunder. The remittances to the City of Neptune Beach shall be accompanied by a statement showing the amount of gross metered kilowatt-hours sold by ~~the City of Jacksonville~~ Beaches Energy in the City of Neptune Beach. ~~The City of Jacksonville~~ Beaches Energy shall keep proper records of its gross sales and revenues derived from the provision of electric service within the corporate limits of the City of Neptune Beach and such records shall be kept open to inspection at all reasonable times by the duly authorized representative of the City of Neptune Beach. Said authorized representatives are hereby given the right of access to and full authority to inspect, examine, audit, and verify such records relating to the sale of electrical energy within the corporate limits of the City of Neptune Beach.

The Parties expressly agree that the above-stated ~~Franchise F~~fee ~~payment~~payment provisions have been freely bargained for and represent fair and just compensation relative to the fair rental value of the rights-of-way and the other consideration given by the Grantor~~City~~ to the Grantee~~Beaches Energy~~ pursuant to this Franchise Agreement. In recognition of the foregoing agreement, each Party, intending to be legally bound, agrees not to contest or seek to limit or change the amount of such~~the Franchise~~ f~~F~~ee provided for herein in any legal, regulatory, or legislative proceedings of any type whatsoever~~, excepting any changes resulting from the application of the Favored Nations provisions in Section 11 hereof~~; provided, however, that if at any time during the term of this Franchise Agreement Grantor notifies Beaches Energy that it desires to impose an additional franchise fee in support of Grantor's undergrounding project(s), which the Parties hereby acknowledge and agree that Beaches Energy will be entitled to pass along to Customers within the corporate boundaries of the City of Neptune Beach as a separate retail billing line item, the Parties will use good faith, reasonable efforts to negotiate amendments or supplements to this Franchise Agreement to provide therefor~~e~~.

Section 8. Grantor's Obligations and Reserved Rights. As a further consideration, during the term of this Franchise Agreement or any extension thereof~~, and subject to the Grantor's Right to Purchase Grantee's Facilities in the City pursuant to this Franchise Agreement, including such Right to Purchase that may vest upon termination of this Franchise Agreement as set forth herein,~~ the Grantor agrees: (a) not to engage in the distribution and/or sale, in competition with the Grantee, of electric capacity and/or electric energy to any ultimate consumer of electric utility service (herein called a "retail customer") or to any electrical distribution system established solely to serve any retail customer formerly served by the Grantee, and (b) not to participate in any proceeding or contractual arrangement, the purpose or terms of which would be to obligate the Grantee to transmit and/or distribute, electric capacity and/or electric energy from any third party (or third parties) to any other retail customer's facility or facilities, provided that the City of Neptune Beach shall not be considered a "third party" or an "other retail customer" for purposes of this provision.

Nothing specified herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale transactions that are subject to the provisions of the

Federal Power Act. The Grantor retains the right to generate and distribute electric power for its own use, subject to the requirements of Florida law, and the right to operate emergency generating facilities owned by the Grantor for purposes of serving critical facilities (e.g., nursing homes, hospitals, water and wastewater treatment plants, and similar facilities) during declared emergencies such as hurricanes or tropical storms.

Nothing herein shall prohibit the Grantor, if permitted by law, (i) from purchasing electric capacity and/or electric energy from any other person, or (ii) from seeking to have the Grantee transmit and/or distribute to any facility (or facilities) of the Grantor electric capacity and/or electric energy purchased by the Grantor from any other person; provided, however, that before the Grantor elects to purchase electric capacity and/or electric energy from any other person, the Grantor shall notify the Grantee. Such notice shall include a summary of the specific rates, terms and conditions that have been offered by the other person and identify the Grantor's facilities to be served under the offer. The Grantee shall thereafter have 90 days to evaluate the offer and, if the Grantee offers rates, terms and conditions which are equal to or better than those offered by the other person, the Grantor shall be obligated to continue to purchase from the Grantee electric capacity and/or electric energy to serve the previously-identified facilities of the Grantor for a term no shorter than that offered by the other person, provided that Grantee shall ensure by all means necessary that such purchases by the Grantor shall be made at the rates offered by the Grantee for the term of such transaction, and provided further that, if for any reason the Grantee does not honor its obligation to serve the Grantor's facilities at the rates offered by the Grantee for the term of the transaction, such failure shall entitle Grantor to terminate the transaction and purchase electric capacity and/or electric energy from another provider. If the Grantee does not agree to rates, terms and conditions which equal or better the other person's offer, then the Grantor shall be permitted and entitled to enter into the proposed transaction with the other person, and all of the terms and conditions of this Franchise Agreement shall remain in effect. In the event of a dispute as to whether the Grantee has offered rates, terms, and conditions what are equal to or better than those offered by the other person, it is the intent of the Parties that the determination of such dispute shall be made on an objective basis to the maximum extent possible. If the Parties are unable to agree, then the Parties agree to submit the dispute to binding arbitration pursuant to the arbitration protocols of the American Arbitration Association; the Parties will each bear their own costs in any such arbitration proceedings.

The Grantor may also, if permitted by law and in compliance with any applicable provisions of Grantee's tariffs, (i) generate renewable electricity at any facility or property owned by the Grantor for storage or utilization at that facility, property, or other Grantor facilities, operations or equipment; (ii) use renewable energy sources to generate electricity for use in demonstration projects or at the Grantor's facilities; (iii) engage in net metering programs in accordance with any applicable Grantee tariffs; and (iv) sell electricity to the Grantee or other wholesale purchaser in compliance with applicable rules and regulations controlling such transactions.

Section 9. Streetlight Facilities Installation and Maintenance. The Grantee shall provide streetlighting service and private lighting service pursuant to its tariffs as approved by the City Council of Jacksonville Beach. The Grantee commits to work toward converting its existing streetlighting and private lighting luminaires to Light

Emitting Diode (LED) technology as expeditiously as possible, consistent with commercially reasonable principles in the best interests of all of Grantee's customers.

Section 10. Joint Use of Poles, Conduits, and Similar Facilities. The Grantee shall have the right to enter into such contracts or agreements concerning the joint use of, or attachment to, its poles, conduits, or other facilities for the furnishing of telephone, telegraph, cable television, broadband, internet, and similar or other services as it may in its discretion desire. No such joint use or attachment agreements shall be construed or applied to limit or restrict the Grantor's plans to convert existing utility facilities from overhead to underground facilities and service, except that the Grantee hereby expressly disclaims any promise to the Grantor that undergrounding will eliminate all above ground facilities that are subject to joint use or other attachment agreements. The Grantee agrees to use its reasonable efforts to cause counterparties under its joint use or other attachment agreements to remove facilities from existing poles after undergrounding of the Grantee's Facilities, but nothing in this Section 10 or otherwise is a guarantee or promise that the Grantee will secure such counterparties' agreement and cooperation. Any and all income derived from said joint use or other attachment agreements shall accrue solely and exclusively to the Grantee; provided, however, nothing herein shall be construed to prevent either the granting of a franchise for any such services by the City of Neptune Beach to any providers thereof or the retention of all income from such franchises by the Grantor.

Section 11. ~~Reciprocal Favored Nations Provisions. As part of the mutual and reciprocal exchange of consideration pursuant to this Franchise Agreement, the Parties hereby agree to the following reciprocal covenants to offer improved terms to each other~~

~~upon the occurrence of certain conditions or events, such terms being generally recognized as "Favored Nations" provisions in agreements of this type.~~

~~(a) If the Grantor grants a right, privilege or franchise to any other person or otherwise enables any other such person to construct, operate or maintain electric light and power facilities within any part of the incorporated areas of the City in which the Grantee may lawfully serve or compete on terms and conditions which the Grantee determines are more favorable than the terms and conditions contained herein, the Grantee may at any time thereafter terminate this Franchise Agreement if such terms and conditions are not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least 60 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of such terms and conditions that it considers more favorable. The Grantor shall then have 60 days in which to correct or otherwise remedy the terms and conditions complained of by the Grantee. If the Grantee determines that such terms or conditions are not remedied by the Grantor within said time period, the Grantee may terminate this Franchise Agreement by delivering written notice to the Grantor's Clerk and termination shall be effective on the date of delivery of such notice. Any such termination of this Franchise Agreement by the Grantee shall result in the immediate vesting of the Grantor's Right to Purchase set forth in Section 2(b) of this Franchise Agreement.~~

~~(b) Upon request, Grantee shall furnish the Grantor a copy of all franchise agreements with other municipalities and counties that it is granted, or that it has been granted, from time to time during the term of this Franchise Agreement. If the Grantee~~

~~enters into a franchise agreement or similar agreement with any other local government entity that provides for a franchise fee rate greater than the maximum rate allowable under this Franchise Agreement, under the same terms and conditions as specified in Section 7 hereof, the Grantee, upon written request of the Grantor, shall negotiate and enter into a new franchise agreement with the Grantor in which the percentage to be used in calculating monthly payments under Section 7 hereof shall be no greater than that percentage which the Grantee has agreed to use as a basis for the calculation of payments to the other municipality or county, provided, however, that such new franchise agreement shall include additional benefits to the Grantee, in addition to all benefits provided herein, at least equal to those provided by its franchise agreement with the other municipality. Subject to all limitations, terms and conditions specified in the preceding sentence, the Grantor shall have the sole discretion to determine the percentage to be used in calculating monthly Franchise Fee payments, and the Grantee shall have the sole discretion to determine those benefits to which it would be entitled, under any such new franchise agreement. It is the intent of the Parties that any modifications to this Franchise Agreement pursuant to this subsection are to be as objective as possible and that the reciprocal modifications contemplated hereby are to be as close as is reasonably practicable to the respective changes in the franchise fee rate to be received by the City and the other terms and conditions realized by the Grantee in the franchise agreement that gave rise to the modifications contemplated by this subsection. With respect to any dispute between the Parties as to whether the modifications requested or demanded by the Grantor or the Grantee are objective and as close as reasonably practicable to those in the reference~~

~~franchise agreement, if the Parties are unable to agree between themselves, they agree to submit any such dispute to binding arbitration pursuant to the arbitration protocols of the American Arbitration Association; the Parties will each bear their own costs in any such arbitration proceedings.~~Public Meetings in Advance of Approval of a Sale, if any, of Beaches Energy's Electric System. Prior to the City Council of the City of Jacksonville Beach, Florida approving the sale of the Beaches Energy electric system, if such event ever were proposed or anticipated to occur, the City Council of Neptune Beach, Florida must be given the opportunity to hold a meeting to address such potential sale of the Beaches Energy electric system, with representatives of Beaches Energy Services present to present information and answer questions. In addition to the foregoing sentence, the City Council of the City of Jacksonville Beach, Florida shall also hold a meeting so that Neptune Beach can send representatives and ask questions of Grantee in a public meeting prior to the meeting at which a final decision to sell the Beaches Energy electric system will be decided.

Section 12. Default by Grantee. Failure on the part of the Grantee to comply in any ~~substantial~~material respect with any of the provisions of this Franchise Agreement shall be grounds for forfeiture of Grantee's rights and privileges hereunder, but no such forfeiture shall take effect if the reasonableness or propriety thereof is protested by the Grantee until there is final determination (after the expiration or exhaustion of all rights of appeal by either Party) by a court of competent jurisdiction that the Grantee has failed to comply in a ~~substantial~~material respect with any of the provisions, terms, or requirements of this Franchise Agreement, and the Grantee shall have six months after such final determination to cure the default before a forfeiture shall result. The Grantor, in its sole discretion, may grant additional time to the Grantee for compliance.

Section 13. Default by Grantor. Failure on the part of the Grantor to comply in substantial respect with any of the provisions of this Franchise Agreement, including but not limited to: (a) denying the Grantee use of public rights-of-way for reasons other than unreasonable interference with vehicular (including motor and bicycle) or pedestrian traffic; (b) imposing conditions for use of public rights-of-way contrary to Florida law or the terms and conditions of this Franchise Agreement; or (c) unreasonable delay in issuing the Grantee a use permit, if any, to construct its facilities in public rights-of-way, shall constitute breach of this Franchise Agreement and entitle the Grantee to withhold a portion of the payments provided for in Section 7 hereof, such portion being demonstrably commensurate with any cost or loss suffered by Grantee as a result of the Grantor's action, until such time as a use permit is issued or a court of competent jurisdiction has reached a final determination, after the expiration or exhaustion of all rights of appeal by either Party, in the matter. The Grantor recognizes and agrees that nothing in this Franchise Agreement constitutes or shall be deemed to constitute a waiver of the Grantee's delegated sovereign right of condemnation and that the Grantee, in its sole discretion, may exercise such right as may be provided by law. The Grantee recognizes and agrees that nothing in this Franchise Agreement constitutes or shall be deemed to constitute a waiver of the Grantor's delegated sovereign right of condemnation and that the Grantor, in its sole discretion, may exercise such right as may be provided by law, provided that the Grantor shall not exercise such right so as to violate the Grantor's covenant, set forth in Section 8 hereof, not to compete against the Grantee in the distribution and/or sale of electricity to ultimate consumers during the term of this Franchise Agreement.

Section 14. Change in Law. If as a direct or indirect consequence of any legislative, regulatory or other action by the United States of America or the State of Florida (or any department, agency, authority, instrumentality, or political subdivision of either of them having jurisdiction), any person is permitted to provide electric service within the incorporated areas of the Grantor to a Customer then being served by the Grantee, or to any new applicant for electric service within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve, and the Grantee determines that its obligations hereunder place it at a competitive disadvantage with respect to such other person, the Grantee may, at any time after the taking of such action, terminate this Franchise Agreement if such competitive disadvantage is not remedied to the reasonable satisfaction of the Grantee within the time period provided hereafter. The Grantee shall give the Grantor at least 90 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of the obligations of the Grantee hereunder that cause the competitive disadvantage. The Grantee and the Grantor shall then have 90 days in which to negotiate an amendment to this Franchise Agreement that eliminates such competitive disadvantage, as determined in the reasonable discretion of the Grantee. If such competitive disadvantage is not so eliminated within said time period, the Grantee may terminate this Franchise Agreement by delivering written notice to the Grantor's Clerk and termination shall take effect on the date of delivery of such notice.

Section 15. Audit; Accuracy of Billing. (a) The Grantor may, upon reasonable notice and within 90 days after the end of each fiscal year of the Grantor, at the Grantor's expense, examine and audit the records of the Grantee relating directly to the calculation of the Franchise Fee payments for the five years preceding the end of such fiscal year. Such examination shall be during normal business hours at the Grantee's office where such records are maintained, or as otherwise mutually agreed in writing by the Parties. Records not prepared by the Grantee in the ordinary course of business may be provided at the Grantor's expense and as the Grantor and the Grantee may agree in writing. Information identifying the Grantee's Customers by name or their electric consumption shall not be taken from the Grantee's premises. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Grantor, shall be reported to the Grantee. The Grantor's right to examine the records of the Grantee in accordance with this Section shall not be conducted by any third party employed by the Grantor whose fee, in whole or part, for conducting such audit is contingent on findings of the audit. This provision shall survive termination of this Franchise Agreement.

(b) Grantor waives, settles and bars all claims relating in any way to the amounts paid by the Grantee under the terms embodied in the 2002 Electric Agreement, or amounts allegedly owed by Grantee to Grantor as of the effective date of this Ordinance, provided that Grantee pays all amounts due and owing to Grantor as of the effective date of this Ordinance, including all amounts due and owing pursuant to any audit then in process.

Section 16. Severability. The provisions of this Franchise Agreement are interdependent upon one another, and if any of the provisions of this Franchise

Agreement are found or adjudged by a court of competent jurisdiction (after the expiration of all rights of appeal) to be invalid, illegal, void, or of no effect, such finding or adjudication shall not affect the validity of the remaining provisions for a period of ninety (90) days, during which period the Parties will negotiate in good faith to amend this Franchise Agreement so as to restore to the maximum extent permissible, the original economic bargain embodied in this ordinance. If an agreement to amend the ordinance is not reached at the end of such ninety (90) day period, either party may provide notice to the other declaring this entire Franchise Agreement to be null and void and of no force or effect; provided, however, that in the event that this Franchise Agreement is terminated by either Party pursuant to this provision of this Franchise Agreement, the Grantee expressly recognizes and agrees that the Grantor's Right to Purchase pursuant to Section 2(b) shall survive any such termination and thereupon immediately vest in Grantor.

Section 17. Entire Agreement. This Franchise Agreement is intended to constitute the sole and entire agreement between the Grantor and Grantee with respect to the subject matter hereof and correctly sets forth the rights, duties, and obligations of each of the other as of its date. Any prior agreements, promises, negotiations, or representations with respect to the subject matter hereof not expressly set forth in this Franchise Agreement are of no force or effect, and this supersedes all prior drafts and verbal or written agreements, commitments, or understandings with respect to the subject matter hereof, which shall not be used to vary or contradict the expressed terms herein. Both Parties have been represented by counsel of their choosing with regard to this Franchise Agreement. The Parties agree expressly that the Franchise Fee provisions set forth herein were freely bargained for and represent fair consideration for the terms provided by the Grantor to Grantee under this Franchise Agreement and that each Party agrees not to contest the amount of the Franchise Fee provided herein, excepting any changes resulting from the application of the Favored Nations provisions in Section 11 hereof.

Section 18. Certain Definitions. As used herein "person" means an individual, a partnership, a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint venture, a governmental authority, or any other entity of whatever nature.

Section 19. Successors and Assigns; Assignment. Whenever in this Franchise Agreement either the City of Neptune Beach or the City of Jacksonville Beach (or Beaches Energy Services) is named or referred to, it shall be deemed and understood to include the respective successor, successors, or assigns of either Party, and all rights, privileges and obligations herein conferred shall bind and inure to the benefit of such successor, successors, or assigns of the Grantor or of the Grantee. Any assignment by either Party shall be effective only upon the written consent of the non-assigning Party, which consent shall not be unreasonably withheld or delayed.

Section 20. Modification. It is further understood that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith and approved by the Grantor's City Council.

Section 21. Governing Laws; Compliance with Federal, State, and Local Laws. This Franchise Agreement shall be governed and construed by the applicable laws of the United States, State of Florida, and the Codes and Ordinances of the Grantor to the extent not preempted. The Parties agree to comply with and observe all applicable Federal, State, and valid and non-preempted local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

Section 22. Preliminary Dispute Resolution. The Parties agree that it is in each of their respective best interests to avoid costly litigation or arbitration as a means of resolving disputes which may arise hereunder. Accordingly, the Parties agree that in the event of any dispute between the Parties, ~~the Parties shall adhere to and comply with the provisions of Chapter 164, Florida Statutes. The Parties further agree that, to the extent practicable, before invoking the provisions of Chapter 164, Florida Statutes,~~ senior management of each Party will engage in an in-person meeting to attempt to resolve any dispute within thirty (30) days of notification of the dispute or as mutually agreed to by the Parties; the Parties further agree to continue discussions toward resolving the dispute for a reasonable time relative to the nature and complexity of the dispute. Such meeting and discussions shall be required prior filing an action in an appropriate court, unless either Party determines that it will be irreparably harmed as a result of such delay.

Section 23. Venue. In the event that any legal proceeding is brought to enforce the terms of this Franchise Agreement, it shall be brought exclusively in Duval County, Florida, or, if applicable, in the U.S. District Court for the Northern District of Florida.

Section 24. Notices. Except in exigent circumstances, and except as may otherwise be specifically provided for in this Franchise Agreement, all notices by either party shall be made by United States Certified Mail, return receipt requested, or via a nationally recognized overnight courier service. Any notice given by facsimile or email is deemed to be supplementary, and does not alone constitute notice hereunder, unless acknowledged as received by the other party. All notices shall be addressed as follows:

To the City:	To Grantee:
City of Neptune Beach City Hall 116 First Street Neptune Beach, Florida 32266 Attn: City Manager	Beaches Energy Services City Hall 11 North 3rd Street Jacksonville Beach, Florida 32250 Attn: Utilities Director/City Manager
Copy to:	Copy to:
City of Neptune Beach City Hall 116 First Street Neptune Beach, Florida 32266 Attn: City Attorney	Beaches Energy Services City Hall 11 North 3rd Street Jacksonville Beach, Florida 32250 Attn: City Attorney

Any changes to the above shall be in writing and provided to the other Party as soon as practicable.

Section 25. Repealer; Surrender of Existing Franchise. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict. As a further consideration for the granting of the franchise and associated rights and privileges granted hereby, the Grantee surrenders all franchises and associated rights and privileges heretofore granted by the City of Neptune Beach or the State of Florida for any of the purposes stated in Section 1 or any other sections of this Franchise Agreement and now enjoyed by Grantee in the City of Neptune Beach; provided, however, that such surrender shall not be effective unless and until: (a) this Ordinance shall be finally adopted by the City, (b) the Franchise Agreement created and established hereby shall be accepted by the Grantee, and (c) the Franchise

Agreement and associated rights and privileges granted hereby shall be validly in force and effect pursuant to such adoption by the City and acceptance by the Grantee.

Section 26. Acceptance of Franchise Agreement; Effective Date. This Ordinance shall be effective to create the Grantee's right to accept the Franchise Agreement under the terms and conditions set forth herein as of the date of its adoption by the City. As a condition precedent to the full effectiveness of the Franchise Agreement embodied in this Ordinance, the Grantee shall file its acceptance hereof with the Grantor's Clerk within 30 days of the Grantor's adoption of this Ordinance. The date upon which the Grantee files such acceptance shall be the "Effective Date" of the Franchise Agreement as between the City of Neptune Beach and the City of Jacksonville Beach, d/b/a Beaches Energy Services.

PASSED on first reading this _____ day of _______________, 2025.

PASSED AND ADOPTED on second reading this _____ day of __________________, 2025.

CITY OF NEPTUNE BEACH FLORIDA

By: ______________________________

ATTEST:

By: ___________________________________ (SEAL)
Clerk of the City of Neptune Beach, Florida

APPROVED AS TO FORM AND LEGALITY

____
City Attorney, City of Neptune Beach, Florida

Sidney C. Bigham, III
Michael P. Bist*
Garvin B. Bowden†
Robert B. Celander
David S. Dee*
Charles R. Gardner*
Robert A. "Gus" Harper, III
Kimberly L. King
John T. LaVia, III
Elizabeth J. Maykut‡
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Wright Memo

MEMORANDUM

October 28, 2025

TO: RICHARD PIKE, CITY MANAGER
DERYLE CALHOUN, P.E., CITY ENGINEER

FROM: ROBERT SCHEFFEL WRIGHT

SUBJECT: SUMMARY OF SIGNIFICANT DIFFERENCES BETWEEN 2002 AGREEMENT AND PROPOSED 2025 AGREEMENT

This memo responds to Council Member Rogers's questions regarding changes in the financial and operating responsibilities from the 2002 Electric Service Agreement ("2002 Agreement") between the City of Neptune Beach ("CONB") and the City of Jacksonville Beach, which now operates its electric utility system as Beaches Energy Services ("Beaches Energy" or "Beaches"), to the proposed new 2025 Franchise Agreement ("2025 Franchise"). In addition, the memo provides summaries of significant new provisions and identifies a number of new, but non-controversial, provisions in the 2025 Franchise. Unless specifically noted, section references are to the sections in the new 2025 Franchise.

Changes from 2002 Agreement to 2025 Franchise

Section 1 - Scope of Franchise Granted. The 2002 Agreement granted a franchise to Beaches to operate an electric system and to provide only electric service. The 2025 Franchise grants Beaches a franchise that includes the right to operate an electric system and other utility service facilities, including broadband, communications, dark fiber, and natural gas, but not where such services by Beaches would be in direct competition with similar services provided by CONB.

Section 2 – Term & Termination. The 2002 Agreement had a term of 10 years, thereafter terminable by either party with 6 months' notice. The 2025 Franchise has a term of 30 years, and provides that unless terminated or replaced before the end of the initial 30-year term, it will continue on a year-to-year basis until terminated.

Right to Remove (Section 12 of 2002 Agreement) has been deleted. The 2002 Agreement provided that, upon termination of that Agreement, Beaches Energy would remove its equipment from Neptune Beach. This provision was not rational and probably not lawful and has therefore been deleted from the 2025 Franchise.

New Provisions in 2025 Franchise

Section 4 - Streetlights in Median on A1A: FDOT owns the median-placed streetlights on A1A in CONB. If FDOT requires these lights to be relocated, CONB and Beaches agree that FDOT is to pay for such relocation; however, if FDOT cannot be required to pay for relocation, CONB and Beaches agree to negotiate a mutually acceptable resolution of all issues related to such relocation. If CONB requests or requires such relocation, then CONB is responsible for the costs.

Section 6 - Underground Electric Facilities. New Section 6 of the 2025 Franchise recognizes that CONB intends to pursue conversion of existing overhead ("OH") facilities to underground ("UG") facilities as such conversion projects are feasible. Beaches Energy agrees to cooperate with CONB to facilitate CONB's UG projects at the lowest reasonable cost and to provide notice to CONB of potential "hardening" projects in CONB so that CONB can make decisions to support the most cost-effective pursuit of its UG projects. Beaches also agrees to provide a "ballpark" estimate for any potential UG projects at no cost to CONB, but Beaches may charge a reasonable fee for engineering and design work if necessary in order to provide a firm cost estimate for any UG project. Beaches further agrees that CONB can engage its own contractors to perform the work, subject to such contractors meeting Beaches Energy's requirements. (This is completely reasonable because Beaches Energy will own and be responsible for maintaining any new UG facilities.)

Section 7 – Payment in Lieu of Taxes and Potential Supplemental Franchise Fee to Cover UG Projects. The provision defining the amount of the PILOT fee remains unchanged. While the PILOT payment rate itself (3.02 mills per kWh) translates into a percentage rate of approximately 2.5 percent (lower than typical franchise fee rates) on a residential bill, this arrangement is favorable to Neptune Beach and customers living in Neptune Beach as compared to common electric franchise fee payments. This is because the PILOT amount is paid to Neptune Beach by Beaches Energy from Beaches' general revenues, as opposed to typical utility franchise fees that are applied as an add-on percentage fee on each customer's bill. Additionally, if CONB decides to pursue a UG project, Beaches and CONB agree to negotiate amendments to the 2025 Franchise Agreement by which Beaches will charge a UG Conversion Fee on Beaches' retail service bills to customers within CONB and ensure that funds thus collected are used to pay for the UG project (depends on whether CONB engages its own contractors or agrees to pay Beaches for the project).

Section 8 - Non-Compete Agreement and CONB's Right to Purchase Electricity from Others if Permitted by Law. The 2025 Franchise contains an express non-compete agreement by CONB; this is standard for all electric franchises. The 2025 Franchise also would allow CONB to purchase electricity at retail from others if such purchases are otherwise permitted under Florida law. (This is not permitted at the present time, and the prospects for such retail choice in Florida are quite remote; though not impossible, this would require a change in Florida law.) The 2025 Franchise also expressly permits CONB to generate renewable electricity for its own use.

Section 9 - Streetlight Facilities. Beaches commits to work toward converting its existing streetlighting and private area lighting luminaires to LED technology as expeditiously as commercially reasonable.

Section 11: Public Meetings if Beaches Energy Contemplates Selling Its Electric System. Although CONB requested a right to purchase, the parties ultimately agreed to address a potential sale of Beaches' system to another utility (e.g., FPL or Duke Energy) by providing for notice and public meetings of both City Councils at which issues relating to such possible sale would be discussed. The possibility of such a sale must be considered highly unlikely. In addition to political issues at the Jax Beach level, any purchase of Beaches Energy would require Beaches Energy to pay Beaches' remaining contractual obligation to the Florida Municipal Power Agency ("FMPA") as a member of FMPA's All Requirements Project. That obligation rolls forward on a 30-year basis and is currently estimated to be approximately $500 million; while that would not be an insurmountable barrier for a purchaser such as FPL or Duke, it is obviously a significant cost to any such purchaser.

Additional New Non-Controversial Provisions

Sections 12 & 13: Beefed up default provisions applicable to defaults by either Beaches Energy or CONB.

Section 14: Change in Law provision. This addresses what may happen in the event that retail choice becomes lawful in Florida (again, highly unlikely). Basically the 2025 Franchise gives Beaches the right to terminate the Franchise if this occurs and if the change in law material disadvantages Beaches, provided that the parties will attempt to negotiate replacement provisions. (Provisions such as this have become fairly standard in new franchises in Florida.)

Section 15: Right to Audit. CONB has the right to audit franchise fee payment and billing information; Beaches is obligated to bill and remit accurately.

Sections 16-24: Additional Legal Boilerplate Terms: Severability; Entire Agreement; Definitions; Assignment; Modification of Agreement; Governing Laws; Preliminary Dispute Resolution (by meeting of senior officials); Venue for legal actions; Notices.

2002 Agreement

Document No. 875

COPY

ELECTRIC SERVICE AGREEMENT

Between

CITY OF JACKSONVILLE BEACH, FLORIDA

and

CITY OF NEPTUNE BEACH, FLORIDA

THIS AGREEMENT, made and entered into this 1st day of October, 2002, by and between the City of Jacksonville Beach, a municipal corporation of the State of Florida, and the City of Neptune Beach, a municipal corporation of the State of Florida, pursuant to the resolutions of their respective councils adopted at public meetings held on October 7, 2002 and Sept. 23, 2002, respectively.

WITNESSETH:

That in consideration of the premises and of the mutual undertakings, covenants, promises and agreements of the respective parties hereto as hereinafter provided, and other valuable considerations moving to each of said parties, it is hereby mutually covenanted and agreed by and between the parties hereto, as follows:

SECTION 1. DATE AND TERM: This Agreement shall become effective on October 1, 2002, and shall continue in effect for a period of ten (10) years, and shall thereafter continue in effect on a year to year basis.

During the initial ten (10) years, this Agreement can not be terminated by either party except for failure to comply in a substantial respect with the provisions of this Agreement.

After the expiration of the initial ten (10) years, this Agreement may be terminated at the option of either party by giving written advance notice of not less than six (6) months prior to the end of any calendar year of its intention to terminate this Agreement at the end of said calendar year.

SECTION 2. RIGHT OF THE CITY OF JACKSONVILLE BEACH TO OPERATE ELECTRIC DISTRIBUTION SYSTEM: Subject to the terms and conditions hereinafter set forth, the City of Jacksonville Beach, and its successors and assigns, shall have and exercise the exclusive right, privilege and authority to construct, maintain and operate in, under, upon, over and across the present and future streets, alleys, bridges, easements and other public places of the City of Neptune Beach and its successors, in accordance with established practice with respect to electrical distribution system construction and maintenance, electric light and power facilities including conduits, poles, wires, cables, transformers and the like, for the purpose of supplying electricity to the City of Neptune Beach, its successors, the inhabitants thereof and persons and corporations within and without the limits thereof, and including the operation and maintenance of watt hour meters, the reading thereof and billing and collection for the electrical service rendered. The facilities shall be so located and so erected as to interfere as little as possible with traffic over said streets, alleys, bridges and public places, and with reasonable egress from and ingress to abutting property. When any portion of a street is excavated in the location or relocation of electric facilities, the portion of the street so excavated shall, within a reasonable time and as early as practicable after such excavation, be replaced by the City of Jacksonville Beach at its expense and in as good condition as it was at the time of such excavation.

SECTION 3. OBLIGATION OF THE CITY OF JACKSONVILLE BEACH TO SUPPLY ELECTRICAL ENERGY: The City of Jacksonville Beach shall, at its sole cost and expense, furnish and maintain an adequate modern electrical distribution system in the City of Neptune Beach, sufficient to meet the requirements of the users of electricity therein, and to maintain reasonably uninterrupted service sufficient to meet such requirements; provided, however, that the City of Jacksonville Beach shall not be liable or responsible for interruption of service or voltage fluctuation as the result of fire, strike, riot, vandalism, explosion, failure of defective equipment or materials, flood, windstorm, lightning, accident, acts of God, or the public enemy, any act by the supplier of bulk electrical energy to the City of Jacksonville Beach or other acts beyond the control of the

City of Jacksonville Beach, but the City of Jacksonville Beach shall be prompt and diligent in removing and overcoming the cause or causes of said interruption, but nothing herein contained shall be construed as permitting the City of Jacksonville Beach to refuse to deliver electrical energy after the cause of the interruption has been removed.

The City of Jacksonville Beach does not guarantee that the supply of electrical energy hereunder shall be free from interruption occasioned by any of the causes heretofore mentioned, and it is agreed that such interruption shall not constitute a breach of this contract on the part of the City of Jacksonville Beach. With respect to the distribution of electrical energy, the City of Jacksonville Beach shall not discriminate among its customers, including the City of Neptune Beach, and the services rendered hereunder shall be on an equal basis.

SECTION 4. <u>ELECTRICAL ENERGY CONSUMED BY THE CITY OF NEPTUNE BEACH</u>: All electrical energy consumed by facilities owned, leased, or operated by the City of Neptune Beach except unmetered street lights shall be measured by means of watt hour meters and billing for such electrical energy consumption shall be at the current municipal service rate established by ordinances of the City of Jacksonville Beach and charged to facilities of the City of Jacksonville Beach. Jacksonville Beach shall notify Neptune Beach of any change in the municipal rate at least thirty (30) days prior to the effective date of such change.

SECTION 5. <u>STREET LIGHTS</u>: All non-metered street lights now existing or installed in the future in the City of Neptune Beach shall be maintained, repaired, installed or re-installed or replaced by the City of Jacksonville Beach, including lamps, fixtures, arms, ballasts, photoelectric cells, switches, standards and other appurtenances necessary to the normal maintenance and operation of un-metered street lights, during the life of this agreement.

The City of Neptune Beach shall pay to the City of Jacksonville Beach a monthly flat-rate charge per unmetered street light in accordance with the then current published flat-rate street light charge of the City of Jacksonville Beach as now or hereafter in effect for consumers within the corporate limits of the City of Jacksonville Beach. Such flat-rate monthly charge shall cover all installation and maintenance costs and the cost of electrical energy consumed by said unmetered street lights.

SECTION 6. RATES TO CONSUMERS: The City of Jacksonville Beach shall furnish electrical energy to all consumers within the corporate limits of the City of Neptune Beach in accordance with the published and established schedules of rates and regulations for the purchase of electrical energy, as now or hereafter in effect for consumers, within the corporate limits of the City of Jacksonville Beach. Consumers shall be subject to the rules and regulations of the City of Jacksonville Beach for the purchase of electrical energy, provided, however, that in the event any of such rules and regulations conflict with the terms of this agreement, then and in such event, the terms of this agreement shall control.

SECTION 7. LIABILITY: The City of Neptune Beach shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by the City of Jacksonville Beach of its facilities hereunder and the City of Jacksonville Beach agrees to indemnify the City of Neptune Beach and hold it harmless against any and all liability, loss, cost, damage or expense which may accrue to the City of Neptune Beach by reason of neglect, default or misconduct of the City of Jacksonville Beach in the construction, operation or maintenance of its facility hereunder.

SECTION 8. JOINT POLE USE: The City of Jacksonville Beach shall have the right to enter into such contracts or agreements concerning the joint use of its poles, conduits or other facilities for the erection or furnishing of telephone, telegraph, and cable television service as it may in its discretion desire, so long as it will not unreasonably interfere with the discharge of the obligations of the City of Jacksonville Beach hereunder. Any and all income derived from said joint use of poles, conduits or other facilities shall accrue solely and exclusively to the City of Jacksonville Beach; provided, however, nothing herein shall be construed to either prevent the granting of a franchise for any or all such services by the City of Neptune Beach or the retention of all income from such franchise; and, provided further, in the absence of the grant of any such franchise, no such use for such services shall be permitted by the City of Jacksonville Beach.

SECTION 9. <u>PAYMENT IN LIEU OF TAXES</u>: The City of Jacksonville Beach, its successors and assigns, shall pay to the City of Neptune Beach and its successors an amount that will equal $0.00302 per kilowatt hour for all metered electrical energy sold during each calendar year of this agreement to all customers, including the City of Neptune Beach, within the corporate limits of the City of Neptune Beach. The aforementioned payment to the City of Neptune Beach by the City of Jacksonville Beach shall be made monthly on or before the last day of the calendar month immediately following the calendar month during which the sales occurred. Payment to the City of Neptune Beach shall not include the sales from flat-rate charges for street lights whether such revenues be collected from the City of Neptune Beach or the inhabitants thereof and no payment shall be made on sales or revenues collected by the City of Jacksonville Beach for other electric companies, late charges, connection or reconnection charges, electric service installation charges, appliance repair charges, service charges, nor on sales tax collected on behalf of the State of Florida. Such payment shall be accepted by the City of Neptune Beach in lieu of any property, privilege, occupation, franchise, or other tax against the electrical distribution system situated in the City of Neptune Beach or the right or privilege of carrying on and conducting the business of selling and delivering electrical energy as contemplated hereunder. The remittances to the City of Neptune Beach shall be accompanied by a statement showing the amount of gross metered kilowatt hours sold by the City of Jacksonville Beach in the City of Neptune Beach. The City of Jacksonville Beach shall keep proper records of its gross sales and revenues derived from the provisions of electrical service within the corporate limits of the City of Neptune Beach and such records shall be kept open to inspection at all reasonable times by the duly authorized representatives of the City of Neptune Beach. Said authorized representatives are hereby given the right of access to and full authority to inspect, examine, audit, and verify such records relating to the sale of electrical energy within the corporate limits of the City of Neptune Beach.

SECTION 10. FAILURE TO COMPLY: Failure on the part of the City of Jacksonville Beach to comply in any substantial respect with any of the provisions of this agreement, shall be grounds for cancellation of the agreement, but no such cancellation shall take effect if the reasonableness or propriety thereof is protested by the City of Jacksonville Beach, until a court of competent jurisdiction, with right of appeal in either party, shall have found that the City of Jacksonville Beach has failed to comply in a substantial respect with any of the provisions of this agreement, and the City of Jacksonville Beach shall have six (6) months after the final determination of the question, to make good the default before a cancellation shall result, with the right in the City of Neptune Beach at its discretion to grant such additional time to the City of Jacksonville Beach for compliance as necessities in the case require.

SECTION 11. In the event that during the life of this agreement the City of Jacksonville Beach shall negotiate a similar agreement with another municipality, then and in that event the City of Neptune Beach shall have the right and privilege to substitute any section, paragraph or provision of such agreement which may be considered more favorable than that contained herein. Any such substitution shall not be held to change, modify or affect the validity of any other section, paragraph or provision of this franchise.

SECTION 12. RIGHT TO REMOVE: Upon the termination of this agreement upon notice, by forfeiture or otherwise, every right and privilege of the City of Jacksonville Beach to have, operate or maintain; or to furnish or distribute electrical energy in the City of Neptune Beach shall cease and desist, and the City of Jacksonville Beach shall have a period of twelve (12) months from the date of such termination within which to remove its equipment and property from the City of Neptune Beach; and the City of Neptune Beach hereby disclaims any right, title, claim, interest or estate in, of and to the physical equipment and properties constituting the electrical distributions system as now located in the City of Neptune Beach or as may be extended or replaced under the provisions of this agreement.

SECTION 13. SUPERSEDURE: This agreement supersedes, as of the effective date hereof, all previous contracts or representations, whether written or verbal, heretofore in effect by the City of Jacksonville Beach and the City of Neptune Beach with respect to matters herein contained, and constitutes the sole contract by the parties hereto concerning such matters.

IN WITNESS WHEREOF the City of Jacksonville Beach and the City of Neptune Beach have each caused these presents to be duly executed in their respective names, by their respective officers thereunto duly authorized, and their respective seals to be hereto affixed, the day and the year first above written.

ATTEST:

Judy L. Bullock

~~Heidi Reagan,~~ City Clerk ASST.
Judy L. BULLOCK

CITY OF JACKSONVILLE BEACH, FLORIDA

Bob D. Marsden

Bob D. Marsden, Mayor

George D. Forbes

George D. Forbes, City Manager

ATTEST:

Lisa Volpe

Lisa Volpe, City Clerk

CITY OF NEPTUNE BEACH, FLORIDA

Richard Brown

Richard Brown, Mayor

CERTIFICATION

I certify this to be a true and correct copy of the official record on file in the office of the City Clerk.

WITNESSETH my hand and official seal of the City of Neptune Beach, Florida.

this the 27th day of September, 20 18

Catherine Ponson City Clerk

SPONSORED BY:
MAYOR CORRINE BYLUND

Agenda Item #8C
Ord. No. 2025-20
Recovery Residences

CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT

AGENDA ITEMS:	First Reading of Ordinance 2025-20: Recovery Residences
SUBMITTED BY:	Paul Waters, City Attorney
DATE:	December 1, 2025
BACKGROUND:	The Ordinance is mandated by state law. It amends state licensure and local zoning regulations for Level IV substance abuse recovery residences. For operators whose recovery residences are voluntarily certified before July 1, 2025, the bill: • Limits the ability of local governments to bar those certified recovery residences from operating in multifamily structures; • Requires local governments to treat those recovery residences as a non-transient residential use of land under local zoning ordinances; and • Prohibits local governments from regulating the duration or frequency of use of those certified recovery residences in a multifamily structure. For certain Level IV certified recovery residences, the bill also eliminates staffing requirements when residents are not present and increases the number of residents that a recovery residence administrator can oversee from 150 to 500 if the operator maintains a minimum 1:6 personnel-to-resident ratio when residents are present. See the attached bill analysis for further explanation.
RECOMMENDATION:	First Reading and Adoption of Ordinance No. 2025-20
ATTACHMENTS:	1. Business Impact Estimate provided in accordance with section 166.041(4), Florida Statutes. 2. Draft Ordinance 2025-20 3. Bill Analysis

Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City of Neptune Beach's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: **ORDINANCE NO. 2025-20, AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES, DIVISION 8 – VARIANCES, ARTICLE III – ADMINISTRATIVE AND ENFORCEMENT PROCEDURES, TO ENACT SECTION 27-145.1, TITLED "CERTIFIED RECOVERY RESIDENCES"; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

This Business Impact Estimate is provided in accordance with section 166.041(4), *Florida Statutes*. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the City is, nevertheless providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

X **The proposed ordinance is required for compliance with Federal or State law or regulation;**

☐ The proposed ordinance relates to the issuance or refinancing of debt;

☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government.

☐ The proposed ordinance is an emergency ordinance;

☐ The ordinance relates to procurement; or

☐ The proposed ordinance is enacted to implement the following:

[1] *See* Section 166.041(4)(c), *Florida Statutes*.

a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

N/A

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance, or for which businesses will be financially responsible; and
(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

(a) Unknown

(b) Unknown

(c) Unknown

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

N/A

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

N/A

SPONSORED BY:
MAYOR CORRINE BYLUND

ORDINANCE NO. 2025-20

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES, DIVISION 8 – VARIANCES, ARTICLE III – ADMINISTRATIVE AND ENFORCEMENT PROCEDURES, TO ENACT SECTION 27-145.1, TITLED "CERTIFIED RECOVERY RESIDENCES"; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Sec. 2(b), of the Florida Constitution, and Chapter 166 of the Florida Statutes, the City of Neptune Beach ("City") possesses the governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes and to protect the health, safety, and welfare of the City's citizens and residents, except when expressly prohibited by law; and

WHEREAS, Section 397.487(15)(a), Florida Statutes, ("the new Florida Statute") mandates that by no later than January 1, 2026, each municipality and county in the State of Florida must adopt an ordinance establishing procedures for the review and approval of certified recovery residences; and

WHEREAS, the new Florida Statute further mandates the inclusion within such ordinance of a process for requesting reasonable accommodations from any local land use regulation that serves to prohibit the establishment of a certified recovery resident; and

WHEREAS, the new Florida Statute provides that the regulation of the establishment of certified recovery residences must be consistent with the Fair Housing Amendments Act of 1988 (42 U.S.C. §§ 3601 et seq.) and Title II of the Americans with Disabilities Act (42 U.S.C. §§ 12131 et seq.); and

WHEREAS, this Ordinance is adopted for the purpose of compliance with Section 397.487(15)(a), Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA:

SECTION 1: Amendment to the Code of Ordinances. Sec. 27-145.1 of Division 8, Variances, Article III, City Council, of the Code of Ordinances of the City of Neptune Beach, Florida, is hereby amended to read as follows:

Sec. 27-145.1. Required submittal for certified recovery residences.

(a) *Definitions*. The following terms shall be defined as follows:

1. *Certified recovery residence* means a residential dwelling that provides a peer-supported, alcohol-free, and drug-free living environment and is certified by a credentialing entity approved by the Florida Department of Children and Families, pursuant to section 397.487, Florida Statutes.
2. *Reasonable accommodation* means a modification or exception to a local land use, zoning, or building regulation or policy, as necessary to afford individuals with disabilities equal opportunity to use and enjoy a dwelling.
3. *Disability* shall have the same meaning as defined under the Fair Housing Amendments Act and the Americans with Disabilities Act.

(b) *Review Procedures*. The establishment of a certified recovery residence shall be subject to review and approval by the Community Development Department ("Department"), with such approval to be granted or withheld in compliance with all applicable local, state, and federal law, including the Fair Housing Amendments Act of 1988, 42 U.S.C. ss. 3601 et seq., and Title II of the Americans with Disabilities Act, 42 U.S.C. ss. 12131 et seq.

(c) *Application Required*. An applicant seeking reasonable accommodation to establish or operate a certified recovery residence shall submit a written application to the Department. The application must include, at minimum:

1. Applicant Information: The name, mailing address, phone number, and email address of the applicant or the applicant's authorized representative.
2. Property Information: The address and parcel identification number of the subject property.
3. Accommodation Request: A description of the specific accommodation requested, including the applicable regulation or policy from which relief is sought, and an explanation of how the accommodation is necessary to afford equal housing opportunity.

(d) *Date-Stamping and Acknowledgement*. Upon receipt of the application, the Department shall date-stamp the application and provide written acknowledgment of receipt to the applicant.

(e) *Request for Additional Information*. If additional information is required from an applicant, the Department shall notify the applicant in writing within thirty (30) days of receipt of the application. The applicant shall respond to such request within thirty (30) days from the date of receipt of such notification.

(f) *Final Determination*. The Department shall issue a final written determination within sixty (60) days after receipt of a complete application, which shall:

1. Approve the request in whole, with or without conditions;
2. Approve the request in part, with or without conditions;
3. Deny the request, stating with specificity the objective, evidence-based reason for the denial and identifying any deficiencies or actions necessary for reconsideration.

(g) *Automatic approval*. If a final written determination is not issued by the Department within sixty (60) days after receipt of a completed application, the request shall be deemed approved by operation of law, unless the parties mutually agree in writing to a reasonable extension of time.

(h) *Revocation of accommodation*. The Department may revoke a previously granted reasonable accommodation for cause, including but not limited to violation of conditions of approval; lapse, revocation, or failure to maintain required certification or licensure under Florida law, if such status is not reinstated within one hundred eighty (180) days from lapse; and material misrepresentation of facts in the application process. Applicants subjected to revocation shall be provided written notice of such revocation and shall have thirty (30) days upon receipt of written notice to respond contesting the validity of an accommodation revocation.

SECTION 2: Repeal of Conflicting Provisions. All ordinances, resolutions, policies, or procedures in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3: Codification. The provisions of this Ordinance shall become and be made a part of the *Code of Ordinances of the City of Neptune Beach, Florida* and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word “Ordinance”, or similar words, may be changed to “Section,” “Article”, or other appropriate word; provided, however, that Sections Three, Four and Five shall not be codified.

SECTION 4: Severability. If a Court of competent jurisdiction at any time finds any provision of this Ordinance to be unlawful, illegal, or unenforceable, the offending provision shall be deemed severable and removed from the remaining provisions of this Ordinance which shall remain in full force and intact.

SECTION 5: Effective Date. This ordinance shall immediately take effect upon second reading and approval.

VOTE RESULTS OF FIRST READING:

Mayor Corrine A. Bylund	____
Vice Mayor Nia Livingston	____
Councilor Josh Messinger	____
Councilor Brent Rogers	____
Councilor Tim Horvath	____

Passed at First Reading this ___ day of __________, 2025.

VOTE RESULTS OF SECOND READING:

Mayor Corrine A. Bylund	____
Vice Mayor Nia Livingston	____
Councilor Josh Messinger	____
Councilor Brent Rogers	____
Councilor Tim Horvath	____

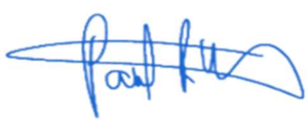
Passed at Second and Final Reading this ____ day of _________, 2026.

____
Corrine A. Bylund, Mayor

ATTEST:

____
Catherine Ponson, City Clerk

Approved as to form and content:



____
Paul Waters, City Attorney

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: CS/CS/HB 1163	**COMPANION BILL:** CS/CS/SB 954 (Gruters)
TITLE: Recovery Residences	**LINKED BILLS:** None
SPONSOR(S): Owen	**RELATED BILLS:** None

Committee References

Human Services	➤	Intergovernmental Affairs	➤	Health & Human Services
12 Y, 5 N, As CS		11 Y, 4 N, As CS		15 Y, 6 N

SUMMARY

Effect of the Bill:

The bill amends state licensure and local zoning regulations for Level IV substance abuse recovery residences. For operators whose recovery residences are voluntarily certified before July 1, 2025, the bill:

- Limits the ability of local governments to bar those certified recovery residences from operating in multifamily structures;
- Requires local governments to treat those recovery residences as a non-transient residential use of land under local zoning ordinances; and
- Prohibits local governments from regulating the duration or frequency of use of those certified recovery residences in a multifamily structure.

For certain Level IV certified recovery residences, the bill also eliminates staffing requirements when residents are not present, and increases the number of residents that a recovery residence administrator can oversee from 150 to 500 if the operator maintains a minimum 1:6 personnel-to-resident ratio when residents are present.

Fiscal or Economic Impact:

None.

JUMP TO | SUMMARY | ANALYSIS | RELEVANT INFORMATION | BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Recovery Residences

Recovery residences (also known as "sober homes" or "sober living homes") are non-medical residential settings designed to support recovery from substance use disorders, helping individuals transition from highly structured residential treatment programs back into their day-to-day lives and maintain their recovery. Florida has a voluntary certification program for recovery residences which classifies such residences into four levels of support, with Level IV being the most intense level.[1]

Zoning and Recovery Residences

Local government decisions on planning and zoning that affect recovery residences' siting have been the subject of controversy and ligation over the last 30 years, both nationally and in Florida, as recovery residences have become a more significant part of individuals' recovery. Currently, state law does not specifically address the siting of certified recovery residences.

[1] S. 397.311, F.S., and ss. 397.487 – 397.4873, F.S.

The bill limits the ability of local governments to bar certain certified recovery residences from being located in multifamily structures. Specifically, the bill requires, for recovery residences (residences) operated by providers that are voluntarily certified before July 1, 2025, that a municipality or county:

- Must consider those residences to be non-transient residential uses of land for local zoning purposes;
- May not enact a law, ordinance, or regulation prohibiting certified residences or regulating the duration or frequency of use for such residences in multifamily structures;
- Must allow certified recovery residences in all districts zoned for multifamily residential use; and
- Must allow a structure originally constructed and permitted for multifamily purposes to be used as a certified recovery residence with up to two residents per bedroom, without obtaining a zoning or a land use change, a special exception, a conditional use approval, a variance, or a comprehensive plan amendment. (Section 1)

The bill specifies that the recovery residence must either not occupy or fully occupy a community or structure that is governed by a condominium association under ch. 718, F.S. (Section 1)

The bill includes exceptions to these requirements, permitting a municipality or a county to deny the establishment of a Level IV certified recovery residence if:

- The proposed use is adjacent to (meaning those properties sharing more than one point of a property line, but not including properties separated by a public road), or on two or more sides of, a parcel zoned for single-family residential use; and
- Is within a single-family residential development with at least twenty-five contiguous single-family homes. (Section 1)

Under current law, a local government may not enact an ordinance or regulation that further regulates the duration or frequency of a resident's stay in a certified recovery residence located within a multifamily zoning district.[2] This prohibition sunsets July 1, 2026, and the bill does not repeal the sunset.

Staffing Requirements for Certified Recovery Residences

Under current law, a recovery residence administrator may supervise up to 50 residents, or up to 100 residents if the credentialing entity approves the administrator to do so. A Level IV recovery residence administrator who supervises 100 residents may supervise up to 150 residents if the treatment service provider maintains minimum ratios of personnel-to-patients and personnel-to-residents; 1:8 and 1:10, respectively. Current law also requires Level IV recovery residence staff to be present 24 hours a day, seven days a week.[3] These Level IV standards only apply to recovery residences which operate as community housing and are wholly owned or controlled by a licensed treatment service provider.

The bill revises the staffing requirements for a Level IV certified recovery residence that operates as community housing and is wholly owned or controlled by a licensed service provider. For administrators that actively manage up to 150 residents, the bill eliminates the 24/7 onsite supervision requirements; instead applying the 1:8 staffing ratio only when residents are present. Further, the bill raises the 150-resident supervision cap to 500 residents, if the administrator maintains a 1:6 personnel-to-resident ratio when residents are present. (Section 2)

The table below documents the staffing changes in the bill.

Level IV Recovery Residence Administrator Supervision Limits		
Standards	**Current Law**	**HB 1163 Options**

[2] S. 397.487(14), F.S.
[3] S. 497.4871(8), F.S.

Service Provider Personnel-to-Patient Ratio	1:8	1:8	1:8
Residence Personnel-to-Resident Ratio	1:10 24 hours / 7 days a week	1:10 when residents present	1:6 when residents present
Resident Supervision Cap	150	150	500

The effective date of the bill is July 1, 2025. (Section 3)

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

The bill will expand opportunities for operators of recovery residences certified before the effective date of the act to open recovery residences where local government regulations have previously prohibited operation, particularly in multifamily structures. The bill will also benefit certain Level IV recovery residences, which will be subject to lower staffing requirements.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Recovery Residences

Recovery residences (also known as "sober homes" or "sober living homes") are non-medical residential settings designed to support recovery from substance use disorders, helping individuals transition from highly structured residential treatment programs back into their day-to-day lives.[4] These may be cooperatively organized and run by residents or operated by for-profit or non-profit organizations.

Homes for individuals recovering from substance use disorder have existed in the U.S. since the mid-1800's, when the focus was on those chronically abusing alcohol; these homes were typically run by religious groups involved in the temperance movement or by privately-run "cure institutes". The modern version of these homes began in the mid-1960's, when homes promoting adherence to 12-step programs like Alcoholics Anonymous—which do not offer clinical or therapeutic services—began operating.[5]

According to the federal Substance Abuse and Mental Health Services Administration, "recovery housing can be a critical asset in supporting an individual on their journey of recovery. Research has demonstrated that recovery housing is associated with a variety of positive outcomes for residents including decreased substance use, reduced likelihood of return to use, lower rates of incarceration, higher income, increased employment, and improved family relationships."[6]

In Florida, a "recovery residence" means "a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a

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[4] Douglas L. Polcin, Ed.D., MFT, and Diane Henderson, B.A., *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses,* 40(2) J Psychoactive Drugs 153–159 (June 2008).
[5] *To License a LULU: Scaling Preemption-Driven Responses to the Regulation of Recovery Homes*, 135 Harv. L. Rev. 733, 736 (2021) https://harvardlawreview.org/print/vol-135/a-license-a-lulu-scaling-preemption-driven-responses-to-the-regulation-of-recovery-homes/ (last visited March 30, 2025).
[6] Substance Abuse and Mental Health Services Administration, Best Practices for Recovery Housing, 2023, https://library.samhsa.gov/sites/default/files/pep23-10-00-002.pdf (last visited March 29, 2025).

residence that provides a peer-supported, alcohol-free, and drug-free living environment."[7] Day or night treatment is one of the state's licensable service components of clinical treatment services. This service is provided in a nonresidential environment with a structured schedule of treatment and rehabilitative services.[8] Some day or night treatment programs have a community housing component; day and night treatment programs with a community housing component are intended for individuals who can benefit from living independently in peer community housing while participating in treatment services at a day or night treatment facility for a minimum of 5 hours a day for a minimum of 25 hours per week.[9]

Recovery residences can be located in single-family homes and multifamily dwellings. There is no definition for "multifamily" in Florida law; however, the term generally refers to "a housing classification where multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex."[10] Examples are condominiums and apartment complexes. To live at a recovery residence, occupants may be required to pay a monthly fee or rent, which supports the cost of maintaining the home. The length of time a person lives at a recovery residence varies,[11] and there are no guidelines regarding lengths of stay.[12] Until July 1, 2026, a local government may not enact an ordinance or regulation that further regulates the duration or frequency of a resident's stay in a certified recovery residence located within a multifamily zoning district.[13]

<u>Regulation of Recovery Residences in Florida</u>

The Florida Model of Substance Abuse Treatment and Legislative Response

Recovery residences started to proliferate in Florida as insurance coverage for behavioral health conditions expanded after the enactment of the Affordable Care Act in 2008 and the Mental Health Parity and Addiction Equity Act of 2012.[14] The opioid crisis created a demand for addiction recovery services, and the housing crash of the late 2000's made purchasing and renting homes generally more affordable. The "Florida model" emerged, where after the first stages of detoxification and inpatient treatment, an individual enters intensive outpatient or day treatment services while residing in a recovery residence.[15]

While substance abuse treatment services require state licensure, at that time there was no legislatively-authorized method of ensuring quality in recovery residences. While many individuals undergoing treatment in Florida found long-term recovery, this situation led to relapse, human trafficking, and even death for others. According to the 2017 report from the Palm Beach County Sober Homes Task Force, "young adults with a substance use disorder are being marketed to Florida's recovery residences, also known as sober homes, and substance abuse treatment providers by the thousands, and many in this vulnerable class are being exploited and abused. The lack of effective oversight of this industry, especially in the private sector, has allowed bad actors to flourish, significantly contributing to the rising death toll."[16] This was a particularly significant issue in Palm Beach County and other jurisdictions in South Florida.

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[7] S. 397.311(39), F.S.
[8] S. 397.311(27)(a)2., F.S.
[9] S. 397.311(27)(a)3., F.S.
[10] Real Estate Industry: A Resource Guide, *Multifamily Real Estate*, Library of Congress Research Guides, https://guides.loc.gov/real-estate-industry-sources/residential/multifamily (last visited March 29, 2025).
[11] American Addiction Center, *Length of Stay at a Sober Living Home*, October 2022, available at https://americanaddictioncenters.org/sober-living/length-of-stay, (last visited March 30, 2025).
[12] Meenakshi S. Subbaraman, *Six-month length of stay associated with better recovery outcomes among residents of sober living houses,* 49 American Journal of Drug and Alcohol Abuse (Oct. 2023) https://www.tandfonline.com/doi/full/10.1080/00952990.2023.2245123#abstract (last visited March 29, 2025).
[13] S. 397.487(14), F.S.
[14] Palm Beach County Sober Homes Task Force, *Identification of Problems in the Substance Abuse Treatment and Recovery Residence Industries with Recommended Changes to Existing Laws and Regulations,* Jan. 1, 2017, https://sa15.wpenginepowered.com/wp-content/uploads/Sober-Homes-Task-Force-Report-2017.pdf (last visited March 29, 2025).
[15] Douglas Polcin, et al, *Maximizing Social Model Principles in Residential Recovery Settings*, Journal of Psychoactive Drugs, Nov 2014, https://pmc.ncbi.nlm.nih.gov/articles/PMC4220294/ (last visited March 29. 2025).
[16] Palm Beach County Sober Homes Task Force, *supra* note 14, at 1.

In 2013, the Department of Children and Families (DCF) conducted a study of recovery residences in Florida.[17] DCF sought public comment relating to community concern for recovery residences. Three common concerns were the safety of the residents, safety of the neighborhoods, and lack of governmental oversight.[18] Participants at public meetings listed many concerns, such as:

- Residents being evicted with little or no notice;
- Drug testing might be a necessary part of compliance monitoring;
- Unscrupulous landlords, including an alleged sexual offender who was running a woman's program;
- Residents dying in recovery residences;
- Lack of regulation and harm to neighborhoods;
- Whether state agencies have the resources to enforce regulations and adequately regulate these homes; and
- Land use problems, and nuisance issues caused by visitors at recovery residences, including issues with trash, noise, fights, petty crimes, substandard maintenance, and parking.

The 2015 Legislature responded by establishing a voluntary certification program for recovery residences and recovery residence administrators, implemented by private credentialing entities. [19] This means that recovery residences can continue to operate without being certified, but certification offers advantages to recovery residence operators.

Certification of Recovery Residences and Recovery Residence Administrators

In Florida, a "certified recovery residence" is a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.[20] While certification is voluntary, a recovery residence must be certified to accept or receive patient referrals from licensed treatment providers or existing recovery residences.[21]

Under the certification program, two DCF-approved credentialing entities administer certification programs and issue certificates: the Florida Association of Recovery Residences (FARR) certifies the recovery residences and the Florida Certification Board (FCB) certifies recovery residence administrators.[22]

Certified Recovery Residences

As the credentialing entity for recovery residences in Florida, FARR administers certification, recertification, and disciplinary processes as well as monitors and inspects recovery residences to ensure compliance with certification requirements. FARR is also authorized to deny, revoke, or suspend a certification, or otherwise impose sanctions, if recovery residences are not in compliance or fail to remedy any deficiencies identified. However, any decision that results in an adverse determination is reviewable by DCF.[23]

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[17] Ch. 2013-040, L.O.F. The 2013-2014 General Appropriations Act directed DCF to determine whether to establish a licensure/registration process for recovery residences and to provide the Governor and Legislature with a report on its findings. In its report, DCF was required to identify the number of recovery residences operating in Florida, identify benefits and concerns in connection with the operation of recovery residences, and the impact of recovery residences on effective treatment of alcoholism and on recovery residence residents and surrounding neighborhoods. DCF was also required to include the feasibility, cost, and consequences of licensing, regulating, registering, or certifying recovery residences and their operators. DCF submitted its report to the Governor and Legislature on October 1, 2013.

[18] *Recovery Residence Report*, Department of Children and Families, Office of Substance Abuse and Mental Health, October 1, 2013, available at https://www.myflfamilies.com/sites/default/files/2022-12/DCFProvisoRpt-SoberHomes.pdf (last visited on March 29, 2025).

[19] Ch. 2015-100, L.O.F.

[20] S. 397.311(5), F.S.

[21] S. 397.4873(1), F.S.

[22] DCF, *Recovery Residence Administrators and Recovery Residences,* available at https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences (last visited March 29, 2025).

[23] S. 397.487(8)(f), F.S.

To be certified, a recovery residence must submit the following documents with an application fee to FARR:[24]

- A policy and procedures manual containing:
    - Job descriptions for all staff positions;
    - Drug-testing procedures and requirements;
    - A prohibition against use on the premises of alcohol, marijuana (including marijuana that has been certified by a qualified physician for medical use in accordance with s. 381.986, F.S.); illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed;
    - Policies to support a resident's recovery efforts; and
    - A good neighbor policy to address neighborhood concerns and complaints;
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Sexual predator and sexual offender registry compliance policy;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Proof of background screening; and
- Proof of satisfactory fire, safety, and health inspections.

If the owner, director, or chief financial officer of a certified recovery residence is arrested and awaiting disposition for or found guilty of, or enters a plea of guilty or nolo contendere to, any offense prohibited under s. 435.04(2), F.S., unless DCF has issued an exemption, the certified recovery residence must immediately remove the person from the person's position and notify the credentialing entity within three business days after that removal. If the recovery residence fails to do so, the credentialing entity must revoke the recovery residence's certificate of compliance.[25]

Current law requires DCF to publish a list of all certified recovery residences and recovery residence administrators on its website.[26] There are currently more than 750 certified recovery residences statewide, with 244 of this total classified as level IV.[27]

Certified Recovery Residence Administrators

The FCB administers certification, certification exams, recertification, code of ethics and disciplinary processes, and continuing education requirements. It also establishes core competencies for certified recovery residence administrators (CRRAs).[28] The FCB may also deny, suspend or revoke a recovery residence administrator's certification for noncompliance.[29]

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[24] S. 397.487(3)(a), F.S.
[25] S. 397.487(8)(d), F.S.
[26] S. 397.4872, F.S. Also see DCF, *Recovery Residence Administrators and Recovery Residences*, available at https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences, (last visited March 29, 2025).
[27] Department of Children and Families, Bill Analysis for House Bill 1163, Feb. 24, 2025, p. 4.
[28] S. 397.4871, F.S.
[29] *Id.*

CRRAs are individuals responsible for the overall management of a recovery residence, as well as the supervision of residents and staff.[30] Prior to obtaining certification, CRRA applicants must successfully undergo a level 2 background screening pursuant to [ch. 435, F.S.][31] Additionally, the FCB currently requires CRRAs to:[32]

- Hold at least a high school diploma, GED, or equivalent;
- Complete 100 total clock hours of content specific training, as follows:
  - Recovery Residence Operations and Administration: 20 hours;
  - Maintaining the Physical Residence: 20 hours;
  - Resident Screening and Admission: 10 hours;
  - Resident Recovery Support: 30 hours; and
  - Legal, Professional and Ethical Responsibilities: 20 hours.
- Complete 1,000 hours of work and/or volunteer related experience providing recovery residence administrator, manager or closely-aligned residential management services within a recovery residence setting;
- Undergo 10 hours of on-the-job supervision of the applicant's performance of related recovery residence administrator, manager, or residential management services within a recovery residence setting;
- Obtain three professional letters of recommendation;
- Pass an exam administered by the FCB;
- Complete 10 hours of continuing education annually; and
- Apply for certification renewal annually.

Current law requires a recovery residence to immediately remove a CRRA and notify the credentialing entity within three business days after the removal, if the CRRA is arrested for, found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, any offense prohibited under s. 435.04(2), F.S., while acting in capacity. The recovery residence has 90 days to retain another CRRA or be subject to revocation of its certification.[33]

Staffing Requirements for Certified Recovery Residences

A CRRA may actively manage up to 50 residents at any given time, though may manage up to 100 residents if written justification is provided to, and approved by, the credentialing entity as to how the administrator is able to effectively and appropriately respond to the needs of the residents, maintain residence standards, and meet the residence certification requirements.[34] CRRAs at certain Level IV certified recovery residences (those operating as community housing as defined in s. 397.311(9), F.S., which residence is actively managed by a certified recovery residence administrator approved for 100 residents under this section and is wholly owned or controlled by a licensed service provider) are allowed to actively manage up to 150 residents provided certain conditions are met:

- The licensed service provider maintains a service provider personnel-to-patient ratio of 1 to 8;
- Maintains onsite supervision at the residence 24 hours a day, 7 days a week; and
- Has a personnel-to-resident ratio of 1 to 10. [35]

Recovery Residence Levels of Support

Section 397.311(5), F.S., establishes a four level-classification of certified recovery residences, with Level IV being the most intense level of support, as indicated below.

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30 Florida Certification Board (FCB), *Certified Recovery Residence Administrator (CRRA),* available at https://flcertificationboard.org/certifications/certified-recovery-residence-administrator/ (last visited March 29, 2025).
31 S. 397.4871(5), F.S.
32 FCB, *Certification Guidelines: Credential Standards and Requirements Table: Certified Recovery Residence Administrator (CRRA)*, p. 4-5, available at https://flcertificationboard.org/wp-content/uploads/CRRA-Standards-and-Requirements-Tables-January-2020.pdf (last visited March 29, 2025).
33 S. 397.4871(6)(b), F.S.
34 *Id.*
35 S.397.4871(8)(b) and (c), F.S.

- **Level I**—houses individuals in recovery who have completed treatment, with a minimum of 9 months of sobriety. A Level I certified recovery residence is democratically run by the members who reside in the home.
- **Level II**—encompasses the traditional perspectives of sober living homes. There is oversight from a house manager who has experience with living in recovery. Residents are expected to follow rules outlined in a resident handbook provided by the certified recovery residence administrator. Residents must pay dues, if applicable, and work toward achieving realistic and defined milestones within a chosen recovery path.
- **Level III**—offers higher supervision by staff with formal training to ensure resident accountability. Such residences are staffed 24 hours a day, 7 days a week, and offer residents peer-support services, which may include, but are not limited to, life skill mentoring, recovery planning, and meal preparation. Clinical services may not be performed at the residence. Such residences are most appropriate for persons who require a more structured environment during early recovery from addiction.
- **Level IV**—is a residence offered, referred to, or provided by, a licensed substance abuse treatment service provider to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. Such residences are staffed 24 hours a day and combine outpatient licensable services with recovery residential living. Residents are required to follow a treatment plan and attend group and individual sessions, in addition to developing a recovery plan within the social model of living in a sober lifestyle. No clinical services are provided at the residence and all licensable services are provided offsite.

Local Government Land Use Regulation

Comprehensive Plans

Each county and municipality must plan for future development and growth by adopting, implementing, and amending as necessary a comprehensive plan.[36] Comprehensive plans are implemented through land development regulations and elements.[37] Each comprehensive plan contains elements that address future land use, housing, transportation, infrastructure, coastal management, conservation, recreation and open space, intergovernmental coordination, and capital improvements.

All elements of a plan or plan amendment must be based on relevant, appropriate data[38] and an analysis by the local government.[39] The data supporting a plan or amendment must be taken from professionally accepted sources.[40] The plan must be based on permanent and seasonal population estimates and projections published by the Office of Economic and Demographic Research or generated by the local government based upon a professionally acceptable methodology.[41] The analysis by the local government may include, but is not limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the comprehensive plan or plan amendment.[42]

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Each county and municipality must adopt and enforce land development regulations, such as zoning or other housing-related ordinances, that are consistent with and implement their adopted comprehensive plan.[43] Additionally, all public and private development, including special district projects, must be consistent with the local comprehensive plan.[44]

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[36] Ss. 163.3167(2), 163.3177(2), F.S.
[37] S. 163.3167(1)(c), F.S.
[38] "To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue." S. 163.3177(1)(f), F.S.
[39] S. 163.3177(1)(f), F.S.
[40] S. 163.3177(1)(f)2., F.S.
[41] S. 163.3177(1)(f)3., F.S.
[42] S. 163.3177(1)(f), F.S.
[43] S. 163.3202, F.S.
[44] See ss. 163.3161(6) and 163.3194(1)(a), F.S.

Zoning

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within each land use designation.[45] Examples of major types of zoning often used in local jurisdictions include:[46]

- **Residential**—an area of single-family or multifamily dwellings where businesses may or may not also be located. The zone could be subdivided into areas specifically for multiple-unit dwellings, high-rise apartments, and redevelopment.
- **Commercial**—a zone specifically for commercial businesses. It may be subdivided into areas for small retail, large retail, offices, lodging and other uses.
- **Mixed Residential-Commercial**—also called Mixed-Use, this zoning permits a combination of complementary residential, commercial and/or industrial uses in a single district.
- **Industrial**—an area for industry or manufacturing. Businesses here specialize in the manufacture of industrial products and the provision of services for industrial manufacture. This zone may be subdivided into areas for heavy manufacturing, light assembly and warehouses.
- **Special**—an area that includes other specialized properties such as power plants, sports complexes, airports, and shopping malls.

Common regulations within the zoning map districts include density[47], height and bulk of buildings, setbacks, and parking requirements. Regulations for a zoning category in a downtown area may allow for more density and height than allowed in a suburb, for instance. Exceptions to zoning rules are known as variances. Local governments grant these to applicants to address a problem due to the nature of a specific property or to meet a unique need that would not be harmful to the public interest.[48]

Transient Public Lodging Establishments

Section 509.013, F.S., defines "public lodging establishment". A public lodging establishment can be either transient or non-transient. A public lodging establishment is non-transient if the periods of rental to guests are 30 days or a month or more in length. Examples of facilities excluded from the definition of "public lodging establishment" are:

- Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S., and
- Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, non-transient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.[49]

The Division of Hotels and Restaurants within the Department of Business and Professional Regulation is charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. Thus, the division determines which establishments qualify as public lodging establishments.

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[45] Indian River County, General Zoning Questions, available at https://indianriver.gov/services/community_development/faq.php#faq-questions-33 (last visited March 29, 2025).
[46] Tulane University Law School, The Basics of Land Use and Zoning Law, https://online.law.tulane.edu/blog/land-use-and-zoning-law (last visited March 30, 2025).
[47] "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. See s. 163.3164(12), F.S.
[48] Tulane University Law School, *supra* note 46.
[49] Section 509.242, F.S., establishes classifications for public lodging establishments. These include hotels, motels, vacation rentals, nontransient apartment, transient apartment, bed and breakfast inn, and timeshare project. A "transient apartment" is defined as "a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy."

Under s. 509.032, F.S., a local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals, excepting certain local laws, ordinances, or regulations that were grandfathered in.

Zoning and Recovery Residences

As local governments determine their own zoning regulations, regulations vary within a jurisdiction's zoning map districts. Additionally, since the physical buildings that may be used as recovery residences vary in size and other elements and may be located in different zoning map districts, the requirements that may apply to a building that may be used as a recovery residence can differ both among jurisdictions and even from street to street within a jurisdiction.

While local governments determine these regulations, enacting them by local ordinance, regulations must comply with federal and state law and regulation. The Fair Housing Act and the Americans with Disabilities Act are two federal laws that circumscribe local government authority regarding zoning affecting recovery residences.

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities.[50] The ADA requires broad interpretation of the term "disability" so as to include as many individuals as possible under the definition.[51] The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities.[52] Disability also includes individuals who have a record of such impairment, or are regarded as having such impairment.[53] The phrase "physical or mental impairment" includes, among others[54], drug addiction and alcoholism.[55] However, this only applies to individuals in recovery as ADA protections are not extended to individuals who are actively abusing substances.[56]

Fair Housing Amendment Act

The Fair Housing Amendment Act of 1988 (FHA) prohibits housing discrimination based upon an individual's handicap.[57] A person is considered to have a handicap if he or she has a physical or mental impairment which substantially limits one or more of his or her major life activities.[58] This includes individuals who have a record of such impairment, or are regarded as having such impairment.[59] Drug or alcohol addiction are considered to be handicaps under the FHA.[60] However, current users of illegal controlled substances and persons convicted for illegal manufacture or distribution of a controlled substance are not considered handicapped under the FHA.

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50 42 U.S.C. s. 12101. This includes prohibition against discrimination in employment, state and local government services, public accommodations, commercial facilities, and transportation. U.S. Department of Justice, *Law, Regulations & Standards*, available at http://www.ada.gov/2010_regs.htm (last visited March 29, 2025).
51 42 U.S.C. s. 12102.
52 *Id.*
53 *Id.*
54 28 C.F.R. s. 35.108(b). The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic) and tuberculosis.
55 28 C.F.R. s. 35.108(b).
56 28 C.F.R. s. 35.131.
57 42 U.S.C. § 3604. Similar protections are also afforded under the Florida Fair Housing Act, s. 760.23, F.S., which provides that it is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of a person residing in or intending to reside in that dwelling after it is sold, rented, or made available. The statute provides that "discrimination" is defined to include a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to such person equal opportunity to use and enjoy a dwelling.
58 42 U.S.C. § 3602(h).
59 *Id.*
60 Oxford House, Inc. v. Town of Babylon, 819 F. Supp. 1179, 1182 (E.D.N.Y. 1993).

Based on these federal laws in particular, local governments' decisions on zoning that affects recovery residences' siting has been the subject of significant ligation, both nationally and in Florida, over the last 30 years.[61] Recovery residences' suits have alleged that some local governments have structured their zoning regulation to keep the residences from being able to operate, in response to citizens' concerns about possible detrimental effects to quality of life and property values, in violation of federal law. Local governments point to high costs of emergency response services, poor service quality impeding recovery and impacting health and safety of individuals in recovery living in the residences, and negative impacts on neighborhoods where recovery residences are in high concentration or operated by bad actors.

Federal law requires reasonable accommodations when zoning would exclude individuals with disabilities from housing in a community.[62] According to a joint federal Department of Justice and Department of Housing and Urban Development statement, "reasonable accommodation" is "a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others may sometimes deny them an equal opportunity to use and enjoy a dwelling."[63]

However, there are also legitimate government interests that a local jurisdiction can seek to achieve through its planning and zoning.[64] Additionally, local governments are not required to grant accommodations when they would impose an undue financial and administrative burden on the local government or fundamentally alter the essential nature of the locality's zoning scheme.[65]

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	CS/CS/CS/HB 1065	Caruso	Harrell	Chapter No. 2024-176

[61] See *Recovery Residence Report*, DCF, *supra* note 18, beginning at 10, for cases up until 2013.
[62] Daniel Lauber, *Reforming State and Local Zoning for Community Residences for People With Disabilities and for Recovery Communities* (2024), p. 150, https://sa15.wpenginepowered.com/wp-content/uploads/Florida_Study_CR_and_RC_Report_2024.pdf, (last visited March 30, 2025).
[63] Department of Justice and Department of Housing and Urban Development, *State and Local Land Use Laws and Practices and the Application of the Fair Housing Act,* Nov. 10, 2016, p. 8, https://www.justice.gov/opa/file/912366/dl, (last visited March 30, 2025).
[64] Lauber, *supra* note 62, at 150-151. Examples of such interests cited in this source include assuring that the health and safety needs of the occupants with disabilities are met, and facilitating the essential core characteristics of community residences of emulating a family, normalization, community integration, and the use of neighbors without disabilities as role models.
[65] HUD/DOJ, *supra* note 63, at 8.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Human Services Subcommittee	12 Y, 5 N, As CS	4/1/2025	Mitz	Curry
THE CHANGES ADOPTED BY THE COMMITTEE:	Removes bill provisions pertaining to: • License application; • Licensure processes; • Denial, suspension, and revocation of licenses; • State preemption; and • Creation of a substance abuse and recovery resident efficiency committee.			
Intergovernmental Affairs Subcommittee	11 Y, 4 N, As CS	4/9/2025	Darden	Jones
THE CHANGES ADOPTED BY THE COMMITTEE:	• Specifies that a recertified recovery residence must either not occupy or fully occupy a community or structure governed by a condominium association.			
Health & Human Services Committee	15 Y, 6 N	4/22/2025	Calamas	Curry

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THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

Agenda Item #10A
Res. No. 2025-26
Investment Plan

CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT

AGENDA ITEM:	Resolution No. 2025-26, Adoption of Investment Plan
SUBMITTED BY:	Chief Financial Officer Jaime Hernandez
DATE:	November 25, 2025
BACKGROUND:	The City Council recognizes the need to establish a formal investment plan to manage idle funds in accordance with applicable state laws, including Florida Statutes Chapter 218 for Florida municipalities. Florida Statutes Chapter 218 requires adoption by resolution of such an investment plan.
RECOMMENDATION:	Adoption of Resolution No. 2025-26
ATTACHMENT:	1. Resolution No. 2025-26 2. Investment Plan

RESOLUTION NO. 2025-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, AUTHORIZING THE ESTABLISHMENT OF AN INVESTMENT PLAN FOR THE MANAGEMENT OF CITY FUNDS

WHEREAS, the City of Neptune Beach, Florida (the "City") is committed to the responsible stewardship of public funds and the enhancement of financial sustainability;

WHEREAS, the City Council recognizes the need to establish a formal investment plan to manage idle funds in accordance with applicable state laws, including Florida Statutes Chapter 218 for Florida municipalities;

WHEREAS, the purpose of the investment plan is to ensure the safety, liquidity, and yield of public funds through prudent investment practices;

THEREFORE, BE IT RESOLVED by the City of Neptune Beach City Council as follows**:**

SECTION 1. The City Council hereby authorizes the establishment of an official Investment Plan (the "Plan") for the City of Neptune Beach, Florida.

SECTION 2. The Plan shall govern the investment of surplus funds in accordance with the principles of safety, liquidity, and return, and shall comply with all applicable federal, state, and local laws.

SECTION 3. The City of Neptune Beach hereby designates and authorizes the Chief Financial Officer (or designee) to implement and manage the Plan, including the selection of qualified financial institutions, investment advisors, and custodians.

SECTION 4. The Chief Financial Officer shall maintain this resolution consistently with the Investment Policy.

SECTION 5. The Chief Financial Officer shall provide a monthly internal report to the Finance Committee and a quarterly report to the City Council on the performance of the investments, including compliance with the Investment Policy and any material changes to the strategy.

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

DONE AND ADOPTED by the City Council of the City of Neptune Beach, Florida, at the Regular Council Meeting held on this ____day of ___________, 2025.

____
Corrine Bylund, Mayor

ATTEST:

____
Catherine Ponson, City Clerk

Approved as to Form and Content:

____
Paul Waters, City Attorney

CITY OF NEPTUNE BEACH, FLORIDA

Investment Plan

Table of Contents

1. INVESTMENT PLAN

This Investment Plan establishes a framework for the prudent and diversified management of public funds held by the City of Neptune Beach and ensuring compliance with Ordinance 2025-12 and Florida Statutes §218.415.

a. Purpose

To optimize capital deployment across diversified investment vehicles, balancing risk and return while aligning with organizational liquidity needs and long-term financial goals.

b. Scope

This plan applies to all cash and investment balances of the City, including:

- General Fund
- Special Revenue Funds
- Capital Project Funds
- Enterprise Funds

c. Objectives

In order of priority:

- **Safety** – Preservation of capital is the foremost objective.
- **Liquidity** – Investments must remain sufficiently liquid to meet cash flow needs.
- **Income Generation** – Investments should earn a reasonable return within the constraints of safety and liquidity.
- **Growth** – Allow for modest capital appreciation through limited equity exposure.

d. Legal Compliance

All investments shall comply with:

- **Florida Statutes §218.415**
- **City Ordinance 2025-12**
- **Applicable GASB standards**
- **Prudent Person Rule**

e. **Authorized Investments**
Authorized investments under Florida Statute 218.415 and City Ordinance 2025-12, the following investment are authorized:

- **Intergovernmental Investment Pools:**
  - **Florida PRIME** – A highly liquid, AAAm-rated local government investment pool.
    - **State Board of Administration (SBA)** – For short-term investments.
  - **FMIvT (Florida Municipal Investment Trust)** – Offers a range of fixed-income portfolios.
  - **FGIT (Florida Government Investment Trust)** – Another pooled investment option for local governments.
- **U.S. Government Securities** – Treasury, agencies.
- **Certificates of Deposit (CDs)** – In-state and national banks, if secured.
- **Intergovernmental Investment Pools** – If rated or approved.
- **Money Market Funds** – SEC-registered, AAAm-rated.

f. Risk Management

- **Diversification:** No more than 25% in any single issuer (except U.S. Treasury).
- **Maturity Limits:** Weighted average maturity (WAM) not to exceed 2 years for operating funds.
- **Credit Quality:** Minimum A-rating for MMFs.
- **Collateralization:** All public deposits must be in qualified public depositories under the Florida Security for Public Deposits Act.

g. **Risks** A**ssociated with Each Type of Investment**

Even though the investment vehicles authorized under **Florida Statute 218.415** are designed to be conservative and compliant with public fund safety standards, each carries **some level of risk**. The following is a breakdown of the risk associated with each investment option:

- **Florida PRIME**

  - **Risk Type**: *Liquidity Risk, Credit Risk (minimal)*
  - **Details**: While PRIME is AAAm-rated and highly liquid, it is still a pooled investment. In extreme market stress, liquidity could be constrained, or yields could drop sharply.
  - **Mitigation**: Daily monitoring, diversification with other pools.

- **FMIvT (Florida Municipal Investment Trust)**
  - **Risk Type**: *Interest Rate Risk, Credit Risk*
  - **Details**: Depending on the portfolio (e.g., 1-3 Year, Intermediate), longer durations can expose you to interest rate fluctuations.
  - Credit risk exists if corporate or agency bonds are included.
  - **Mitigation**: Match duration to cash flow needs; monitor credit quality.

- **FGIT (Florida Government Investment Trust)**
  - **Risk Type**: *Market Risk, Liquidity Risk*
  - **Details**: Similar to FMIvT, FGIT pools may include a mix of securities. Market volatility can affect NAV (Net Asset Value).
  - **Mitigation**: Use for medium-term funds, not immediate liquidity needs.

- **U.S. Treasuries**
  - **Risk Type**: *Interest Rate Risk*
  - **Details**: Virtually no credit risk, but longer-term Treasuries can lose value if rates rise.
  - **Mitigation**: Ladder maturities to reduce reinvestment and duration of risk.

- **Collateralized Certificates of Deposit (CDs)**
  - **Risk Type**: *Liquidity Risk, Reinvestment Risk*
  - **Details**: May be locked in for a term; early withdrawal could incur penalties or may be required to sell at a discount.
  - **Mitigation**: Use for funds not needed in the short term.

- **Money Market Funds (AAAm-rated)**
  - **Risk Type**: *Low Yield Risk, Liquidity Risk (in rare cases)*
  - **Details**: Very low risk, but yields may not keep up with inflation or rising rates.
  - **Mitigation**: Use as a liquidity buffer, not for long-term growth.

- **Repurchase Agreements**
  - **Risk Type**: *Counterparty Risk, Collateral Risk*
  - **Details**: If the counterparty defaults and collateral are insufficient or illiquid, losses could occur.

- **Mitigation**: Only use fully collateralized repos with reputable institutions.

- **General Risks Across All Vehicles**
  - **Regulatory Risk**: Changes in laws or interpretations of 218.415.
  - **Operational Risk**: Errors in execution, custody, or reporting.
  - **Inflation Risk**: Returns may not keep pace with inflation, especially in low-rate environments.

Public Funds Investment Risk Matrix

Investment Vehicle	Credit Risk	Interest Rate Risk	Liquidity Risk	Market/Volatility Risk	Notes
Bank-Sweep MMA	🟢 Low	🟢 Low	🟢 Low	🟢 Low	Daily Liquidity
Florida PRIME	🟢 Low	🟢 Low	🟡 Moderate	🟢 Low	Liquidity; AAAm-rated
FMIvT (1-3 Yr)	🟡 Moderate	🟡 Moderate	🟡 Moderate	🟡 Moderate	Duration risk if rates rise
FGIT	🟡 Moderate	🟡 Moderate	🟡 Moderate	🟡 Moderate	NAV can fluctuate slightly
U.S. Treasuries	🟢 None	🔴 High	🟡 Moderate	🟢 Low	Laddering helps mitigate
Collateralized CDs	🟢 Low	🟡 Moderate	🔴 High	🟢 Low	Not liquid; use for reserves
Money Market Funds	🟢 Low	🟢 Low	🟢 Low	🟢 Low	Ideal for cash buffer
Repurchase Agreements	🟡 Moderate	🟢 Low	🟡 Moderate	🟡 Moderate	Use only with strong counterparties

Legend:
🟢 = Low Risk | 🟡 = Moderate Risk | 🔴 = High Risk

h. Performance Monitoring

- **Benchmarks:**
  - Operating funds: 90-day Treasury bill
  - Intermediate funds: 1 to 3-year Treasury index
- **Review:**
  - Annual review of the investment policy and strategy
  - Periodic audits by external auditors

i. Operations, Oversight & Governance

- **Investment Officer:** Per Sec. 2-172, Investment of Funds, the City's Chief Financial Officer (CFO) shall serve as the Investment Officer and invest funds not required for immediate disbursements.
- **Internal Controls:** Segregation of duties, dual authorization, and reconciliation procedures shall be maintained.
- **Reporting:**
  - The CFO must prepare a monthly internal report for the Finance Committee.
  - Quarterly investment report to the City Council

j. Adoption & Amendments

This plan shall be adopted by resolution of the City Council and reviewed quarterly. Any amendments must be approved by Council and comply with applicable laws.

2. PORTFOLIO ALLOCATION

The portfolio is based on all cash-in-bank (CIB) of **$11,500,000** available at the time this plan was developed. The strategy would be for the City of Neptune Beach to develop an investment portfolio that balances a **conservative-to-moderate allocations strategy** that balances **liquidity**, **safety**, and **reasonable return**, while complying with **Florida Statutes §218.415** and **Ordinance 2025-12**.

This investment allocation is based on:

- Public sector best practices
- Florida Statutes §218.415
- Code of Ordinance, Sec. 2-172 – Investment of Funds
- Ordinance 2025-12
- Moderate risk tolerance (focused on capital preservation, liquidity, and reasonable return)

Target Allocation Strategy (All Cash in Banks (CIB) and Estimated Returns:

Investment Portfolio Allocation Summary

Total Portfolio **$ 11,500,000**

1. Liquidity & Operational Funds (60%)

Instrument	Allocation	Amount	Yield	Gross Return	Purpose
Bank Accounts	**7.00%**	**$800,000**	**2.25%**	**$ 7,000**	**Daily Cash Flow (Liquidity)**
PNC		$250,000	2.25%	$ 5,625	Other operational cash
JP Morgan Chase		$550,000	0.25%	$ 1,375	Operating-Payroll, AP, Others
Overnight Sweep Accounts	**21.00%**	**2,300,000**	**3.90%**	**85,250**	**Idle cash optimization**
PNC		1,300,000	3.75%	48,750	
JP Morgan Chase		1,000,000	3.65%	36,500	
CDs	11.00%	1,100,000	4.25%	44,550	**Idle cash optimization**
Ameris Bank		100,000	2.25%	2,250	
Florida PRIME		1,000,000	4.23%	42,300	
Florida PRIME	**33.00%**	**3,800,000**	**5.00%**	**190,000**	**Idle cash optimization**
Total Liquidity & Operational Funds	**72.00%**	**$8,000,000**	**3.72%**	**297,333**	

2. Yield-Oriented Core (43%)

Instrument	Allocation	Amount	Yield		Purpose
FMIvT (1-3 Yr Fund)	28.00%	$3,500,000	4.71%	164,850	Intermediate-term Reserves
0-2 Years High-Quality Bond Fund		$1,500,000	4.71%	70,650	
1-3 Years Intermediate High Quality Bond Fund		$1,000,000	4.83%	48,300	
Intermediate High Quality Bond Fund		$1,000,000	4.59%	45,900	
Weighted Expected Gross Return	**100.00%**	**$ 11,500,000**	**4.02%**	**$ 462,183**	

Strategic Rationale

- **Liquidity (72% or $8,000,000):**
  Florida PRIME, Bank Accounts, and sweep accounts ensure that more than half the portfolio is liquid and accessible for operational need and/or emergencies.
- **Yield Enhancement (28% or $3,500,000):**

Considerations

a. **Liquidity Needs**: Ensure enough is in Bank Overnight Sweeps, PRIME or MMFs for short-term (weekly) obligations.
b. **Diversification**: Spread across multiple pools and instruments to reduce risk.
c. **Compliance**: All investments must meet the credit quality, maturity, and diversification requirements of 218.415.
d. **Oversight**: Regularly review performance, credit ratings, and compliance.

3. **ESTIMATED COSTS & FEES**

Potential costs are based on typical fee structures for the investment vehicles used:

a. Florida PRIME

- **Typical Fee**: ~0.06% (7 bps)
- **Amount Invested**: \$3,999,988
- **Estimated Annual Fee**: ≈ \$2,800

b. FMIvT (Florida Municipal Investment Trust)

- **Typical Fee Range**: 0.25%–0.35%
- **Amount Invested**: \$4,000,000
- **Estimated Annual Fee**: ≈ \$10,000–\$14,000

c. Certificates of Deposit (CDs)

- **Typical Fee**: Usually no direct management fee; banks earn via spread
- **Amount Invested**: \$1,000,000
- **Estimated Fee**: \$0 (assumed)

d. Bank Accounts & Sweep Accounts

- **Sweep Account Fee**: Often embedded in yield; may range from 0.10%–0.25%
- **Amount in Sweeps**: \$2,499,999
- **Estimated Fee**: ≈ \$2,500–\$8,750

Estimated Total Annual Fees

Category	Investment	Percentage	Estimated Annual Fees
Florida PRIME	$ 4,000,000.00	0.070%	$ 2,800.00
FMIvT	$ 4,000,000.00	0.350%	14,000.00
Banks & Sweep Accounts	$ 3,500,000.00	0.250%	8,750.00
Estimated Fee:			$ 25,550.00

4. FINAL ASSESSMENT

a. The portfolio is fully compliance with Florida Statutes §218.415 and the City's Ordinance 2025-12:
b. Provides adequate risk management
c. Oversight structure is robust and compliant with public-fund best practices
d. Strategy is conservative-to-moderate (aligned with public-fund best practices)