

Interlocal Service Boundary Agreement

**County of Volusia and
City of Daytona Beach**

**INTERLOCAL SERVICE BOUNDARY AGREEMENT
BETWEEN THE COUNTY OF VOLUSIA AND
THE CITY OF DAYTONA BEACH**

This Interlocal Service Boundary Agreement ("ISBA"), (collectively referred to as "the Agreement") is made and entered into this 30 day of June, 2017, by and between the County of Volusia ("County"), and the City of Daytona Beach ("City") and sometimes herein referred to as "Party" or "Parties" as the context requires.

WHEREAS, the City possesses Municipal Home Rule Powers pursuant to Article VIII, Section 2(b), Florida Constitution, Chapter 166, Florida Statutes, and Article I, Section 4, of the City of Daytona Beach Charter; and

WHEREAS, the County possesses powers of self government and home rule as provided by the Volusia County Charter and Chapter 125, Part II, Florida Statutes; and

WHEREAS, the City invited the County to enter into negotiations for an Interlocal Service Boundary Agreement by Resolution 17-156 on May 17, 2017; and

WHEREAS, the county council responded to the City's invitation by Resolution 2017-068 on June 1, 2017, and agreed therein to participate in negotiations for an Interlocal Service Boundary Agreement; and

WHEREAS, the Municipal Annexation or Contraction Act, Chapter 171, Part I, Florida Statutes, and the Interlocal Service Boundary Agreement Act, Chapter 171, Part II, Florida Statutes, recognizes the use of interlocal service boundary agreements and joint planning agreements as a means to coordinate planning and delivery of services related to future land use, public facilities and services, and protection of natural resources in advance of annexation; and

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes, requires that cities and counties include in their respective planning efforts intergovernmental coordination and particularly, mechanisms for identifying and implementing joint planning areas; and

WHEREAS, the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes, encourages and empowers local governments to cooperate with one another on matters of mutual interest and advantage, and provides for interlocal agreements between local governments on matters such as annexation, joint planning, and the delivery of services; and

WHEREAS, the City and the County wish to identify lands that are logical candidates for future annexations, the appropriate land uses and infrastructure needs and the provider for such lands, and to ensure protection of natural resources; and

WHEREAS, Sections 163.3171(4), 171.203(6)(f) and (7), Florida Statutes, allow an interlocal service boundary agreement to establish a process for land use decisions consistent with Part II of Chapter 163, including those which may allow a municipality to adopt land use changes

consistent with Part II of Chapter 163 for areas that are scheduled to be annexed within the term of an interlocal service boundary agreement; and

WHEREAS, Section 171.204, Florida Statutes, allows a municipality to annex land that is not contiguous to the municipality, creates an enclave or is not reasonably compact when a county and municipality enter into a joint planning agreement ("JPA") under Section 163.3171, Florida Statutes; and

WHEREAS, the County will support annexations within the Interlocal Service Boundary Agreement area that will further create efficiencies for the delivery of municipal services; and

WHEREAS, the extension of City and County facilities and services, and the annexation of lands, are most efficiently provided if the process and timing of long range planning, annexation, and development review processes by the City and the County are clearly identified and part of a coordinated joint effort, and the commitment by the City and the County to do so are material inducements to the Parties for entering into this Agreement; and

WHEREAS, the City and the County find that the benefits of intergovernmental communication and coordination will accrue to both Parties; and

WHEREAS, an interlocal service boundary agreement may, under Section 171.203, Florida Statutes, address any issue concerning service delivery, fiscal responsibilities, or adjustment of territorial boundaries, which may include, but are not necessarily limited to:

1. Identification of a Municipal Service Area ("MSA"), which for purposes of this Agreement is defined, consistent with Section 171.202(11), Florida Statutes, as being unincorporated land depicted in Map 1, attached to this Agreement, that:

- a. may receive municipal services from the City; or
- b. may be annexed by the City; and

2. Providing a process and schedule for the annexation of lands in an MSA; and

3. Establishing procedures for the adoption of comprehensive plan amendments, land use changes, administering land development regulations, and issuing development orders consistent with Chapter 163, Part II, Florida Statutes; and

4. Addressing other service delivery issues; and

5. Land use planning; and

WHEREAS, an interlocal service boundary agreement that addresses responsibilities for land use planning must establish procedures for adopting comprehensive plan amendments, administration of land development regulations, and the issuance of development orders consistent with Chapter 163, Florida Statutes; and must, in accordance with Section 171.204, Florida Statutes, include a joint planning agreement under Section 163.3171, Florida Statutes; and

WHEREAS, the City and the County have met and negotiated in good faith to resolve issues related to annexation and joint planning, and coordinating the provision of public services and infrastructure, and the Parties wish to memorialize their understanding in this Agreement; and

WHEREAS, this Agreement is entered into pursuant to the authority of Article VIII of the Florida Constitution and Chapters 125, 163, 166, 171, and 180, Florida Statutes.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1. *Incorporation of Recitals.* The recitals above are true and correct and are incorporated into this ISBA as if fully set forth herein, as the legislative findings of the City and the County.

2. *Incorporation of Map 1.* Map 1, attached hereto, is fully incorporated as if fully set forth herein.

3. *Term and Effective Date of Agreement.* The ISBA shall become effective when filed with Clerk of Court for Volusia County Circuit Court, in accordance with Section 163.01(11), Florida Statutes. The initial term of the Agreement shall be twenty (20) years from the effective date of the Agreement. At the end of the tenth year, the City and the County shall review the effectiveness and performance of this Agreement. Based upon the review, this Agreement, may continue for the remainder of the initial term, be amended as the Parties desire, or be terminated in accordance with paragraph 11 of this Agreement.

4. *Renewal of Agreement.* The City and the County shall, in the event the Parties desire to extend the initial term of the Agreement, initiate negotiations in accordance with Section 171.203(12), Florida Statutes, no later than eighteen (18) months prior to the termination of the initial term.

5. *Duplication of Services.* In furtherance of the purpose of this Agreement, the City and the County shall not undertake any action that will result in the overlapping, duplication, or competition of services or exercise of powers provided herein without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

6. *Planning and Development Services.*

- a. The City shall adopt a Municipal Service Area ("MSA"), as that term is defined in Section 171.202(11), Florida Statutes, as an amendment to its comprehensive plan within six (6) months of the effective date of the ISBA, in accordance with Section 171.203 (11), Florida Statutes. The MSA shall include the area depicted in Map 1, population projections for the MSA, and data and analysis supporting the provision of public facilities for the MSA. The City's amendment to its Intergovernmental Coordination Element of its comprehensive plan in accordance with Section 171.203(9), Florida

Statutes, to reference this ISBA, shall serve as the comprehensive plan amendment required by Section 171.203(11), Florida Statutes.

- b. The City and the County shall amend the Intergovernmental Coordination Element of their respective comprehensive plans in accordance with Section 171.203(9), Florida Statutes, within six (6) months of the effective date of this ISBA, by adopting a policy referencing this Agreement. The County's policy shall read as follows, and shall be inserted in Chapter 14 of the County's comprehensive plan:

Pursuant to Chapter 171, Part II, Florida Statutes, Volusia County and the City of Daytona Beach have established an Interlocal Service Boundary Agreement (ISBA) recorded and effective on JULY 5, 2017. The Agreement allows the City to annex properties within the Joint Planning Area that would not otherwise be eligible for annexation subject to the provisions established in the ISBA.

- c. Section 171.207, Florida Statutes, expressly authorizes a county to transfer its powers to a municipality over lands that are within a JPA/MSA; and Section 171.208, Florida Statutes, expressly authorizes a municipality to exercise its powers, extraterritorially, over such lands. In accordance with Sections 163.3171(4) and 171.203(6)(f), Florida Statutes, the County comprehensive plan, zoning, and land development regulations shall apply to, and the City shall enforce the County's regulations on, all lands in the JPA/MSA until the City annexes the land at issue, or amends its comprehensive plan with respect to those lands. The unincorporated area in the JPA/MSA as depicted in Map 1 is anticipated for municipal annexation because it is "urban in character," as that term is defined by Section 171.031(8), Florida Statutes.
- d. The City and the County hereby acknowledge that the County comprehensive plan, zoning, and land development regulations permit public services within the JPA/MSA.
- e. Notwithstanding subparagraph "c" above, the City's land development process shall apply within the JPA/MSA, including, but not limited to, site plan review, permit issuance and inspections. The City may begin construction of the First Step Shelter facility as referenced in the First Step Shelter Interlocal Grant Agreement with the County as approved by City Resolution No. 17-173, without submission to the County of a site plan or attainment of County permits in advance of annexation. The City shall be responsible for issuing all building permits necessary in furtherance of the First Step Shelter facility.

- f. Pursuant to Section 171.204, Florida Statutes, before annexation of land that is not contiguous to the boundaries of the annexing municipality, the municipality shall transmit a comprehensive plan amendment relating to the property anticipated for annexation OR a municipality and county shall enter into a joint planning agreement under Section 163.3171, Florida Statutes, which is adopted into the municipal comprehensive plan. Therefore, prior to annexation, this ISBA serves as the joint planning agreement required by Section 171.204, Florida Statutes, and the City and the County comprehensive plans serve to address the planning and service issues required by Section 171.204, Florida Statutes. The amendments to the Intergovernmental Coordination Elements of the respective comprehensive plans in accordance with Section 171.203(9), Florida Statutes, to reference this ISBA, shall also serve as adoption of a joint planning agreement into the City's comprehensive plan as required by Section 171.204(2), Florida Statutes.

7. Public Safety and Fire Protection. The City shall be responsible for all law enforcement and fire services within the MSA, regardless of whether the property has annexed into the City. The City and the County shall continue any current mutual aid agreement in place. The City and the County will provide closest unit response to and from the MSA regardless of call type for emergency and non emergency fire and rescue calls, and regardless of boundaries.

8. Roads; Transfer of Jurisdiction. This paragraph is intended to satisfy the requirements of Section 335.0415(3), Florida Statutes.

- a. County Thoroughfare Roads. There are no County Thoroughfare Roads within the JPA/MSA. Subsequent addition to the County's thoroughfare roads in the Volusia County Comprehensive Plan are subject to transfer to the City per the terms of this ISBA per subparagraph "8b".
- b. Non-Thoroughfare Roads. The permanent transfer within the JPA/MSA of non-thoroughfare road maintenance responsibilities from the County to the City shall occur as follows:
 - (1) For purposes of this Agreement, "road segment" shall mean the portion of a County road between two intersecting roads.
 - (2) Non-thoroughfare County roads within or adjacent to the existing City boundary shall become roads under the City's jurisdiction and maintenance responsibility when at least fifty-one percent (51%) of the road segment is either within or adjacent to the existing City.
 - (3) All non-thoroughfare County roads within the MSA shall transfer to the City's jurisdiction and maintenance responsibility by segment upon the annexation of at least fifty-one percent (51%) of a road segment.

- (4) The 51% segment ratio shall be calculated based on the frontage of annexed parcels of the road segment between two intersecting roads or termination of said road.
- (5) Once 51% or more of a segment is annexed, the entire road segment between the two intersecting roads will be deemed annexed into the City and transferred to the City's jurisdiction, and ownership; and the City will be fully responsible for all maintenance and other responsibilities.
- (6) As the City accepts jurisdiction and responsibility over a road segment, it shall have the same right of access for purposes of maintenance as the County, to the fullest extent the County is able to grant such right.
- (7) Any City or County agreements for road improvements with other governmental or private entities existing at the time of the approval of this Agreement, if any, shall remain in full force and effect; except in the event of a conflict with this Agreement, in which case the terms of this Agreement shall prevail. It is the intention of the Parties that no additional "mutual agreements" shall be necessary to effect road segment annexation. This Agreement is intended to convey the will of the Parties concerning all road segments within the JPA/MSA.
- (8) Road transfer includes infrastructure in the right-of-way, to include, but not limited to, drainage, sidewalks and traffic control devices.

c. Transportation Planning and Coordination.

- (1) The City and the County agree to use the adopted Volusia Transportation Planning Organization (TPO) Transportation Impact Analysis (TIA) Guidelines to coordinate the review and mitigation of development impacts on road, transit, bicycle and pedestrian systems based upon a mutually agreed upon TIA methodology. The TIA Guidelines shall utilize the latest adopted level of service standards and transportation plans within the impacted jurisdiction's comprehensive plans including the adopted Volusia TPO Long Range Transportation Plan.
- (2) In the event the standards or plans may be different, the TIA methodology and/or mitigation plan shall address coordination. When necessary, comprehensive plans shall be updated to reflect the latest coordination plans. In the event the TIA Guidelines are ever repealed or become no longer applicable, the City and the County agree to continue to utilize the latest adopted version for the purpose of plan review and mitigation coordination.

- d. Funding. The City and the County agree to work together to obtain funding sources for capital transportation improvements, including capital and operating expenses for the provision of transit service, within the JPA/MSA.
- e. Maintenance. The City and the County may enter into maintenance agreements for certain segments of permanent County roads within the JPA/MSA. The County agrees that the City shall be justly compensated for any and all maintenance responsibilities that may be transferred to the City through a maintenance agreement.
- f. Continuing Jurisdiction. All roads over which jurisdiction is transferred to the City under the terms of this Agreement shall be maintained by the City unless otherwise agreed to in a separate maintenance agreement. If a road is transferred to the City, to the extent available, the County shall provide all as-builts, surveys, maintenance maps and GIS files that identify County maintenance responsibilities. Road transfers include associated roadway drainage and right-of-way infrastructure or any structures or improvements in the right-of-way that includes, but is not limited to, sidewalks, guardrails, signs and multi-use trails.

9. Solid Waste.

- a. Annexed properties shall be transferred to the City's solid waste service on the first of the following month after annexation.
- b. All City residential and commercial waste collection within the Agreement area shall be disposed at the County's solid waste disposal facilities located at 1990 Tomoka Farms Road or the West Volusia Transfer Station.

10. Stormwater; Transfer of Jurisdiction. There are no stormwater improvement facilities within the JPA/MSA. The City will review and approve all new development in the JPA/MSA with regard to stormwater conveyance systems, including, but not limited to, water quality, discharge volume and flow rate, as well as storm attenuation and flood control.

11. Termination of Agreement. The City or the County may terminate this Agreement at anytime upon written notice of termination to the other Party delivered no later than May 1st in order for termination to be effective on December 31st of the same calendar year. A Party delivering such notice of termination may, in such Party's sole discretion, revoke such notice of termination at any time prior to the termination date. Lands that have been annexed prior to termination of any agreement and services provided to said lands shall not be affected by the termination. Jurisdiction over any affected transportation facilities including roadways, parks, and other public facilities shall not be affected, except through a separate agreement in writing that has been approved by both Parties.

12. Dispute Resolution. The City and the County agree to resolve any dispute related to the interpretation or performance of this Agreement in the manner described in this section. Either Party may initiate the dispute resolution process by providing written notice to the other

Party. Initiation of the dispute resolution process shall operate as a stay of the action which is the subject of the dispute.

- a. Notwithstanding the foregoing, in the event that either Party determines in its sole discretion and good faith that it is necessary to file a lawsuit or other formal challenge in order to meet a jurisdictional time deadline, to obtain a temporary injunction, or otherwise to preserve a legal or equitable right related to this Agreement, such lawsuit or challenge may be filed, but upon the filing and any other act necessary to preserve the legal or equitable right or to obtain the temporary injunction, the Parties shall thereafter promptly file a joint motion with the reviewing court or administrative law judge requesting that the case be abated in order to afford the Parties an opportunity to pursue the dispute resolution procedures set forth herein. If the abatement is granted, the Parties shall revert to and pursue the dispute resolution procedures set forth herein.
- b. Within ten (10) days of the abatement order, the allegedly aggrieved Party shall then effect the transmittal of a notice of conflict, in the form of a certified letter, to all governmental bodies involved in the dispute at issue. Upon receipt of the notice, which shall specify the areas of disagreement, the Parties agree to conduct a conflict assessment meeting at a reasonable time and place, as mutually agreed upon, within thirty (30) days of receipt of the notice of conflict.
- c. If discussions between the Parties at the conflict assessment meeting fail to resolve the dispute, within forty (40) days of the receipt of the notice described in subparagraph "a", above, the Parties shall conduct mediation in the presence of a neutral third party mediator. If the Parties are unable to agree upon a mediator, the County shall request appointment of a mediator by the Chief Judge of the Circuit Court in and for Volusia County, Florida. The mediation contemplated by this section is intended to be an informal and non-adversarial process with the objective of helping the Parties reach a mutually acceptable and voluntary agreement. The decision-making shall rest solely with the Parties. The mediator shall assist the Parties in identifying issues, fostering joint problem-solving and exploring settlement alternatives.
- d. If the Parties are unable to reach a mediated settlement, within fifty (50) days of the receipt of the initial notice of conflict, the Parties shall hold a joint intergovernmental meeting. If the joint intergovernmental meeting does not successfully resolve the issues identified in the notice of conflict, the entities participating in the dispute resolution procedures described herein may avail themselves of any otherwise available rights, including the suspension of abatement of existing actions.

- e. The Parties agree this dispute resolution procedure is intended to satisfy the requirements of Section 163.01(5)(p), Section 171.212, Florida Statutes, and Chapter 164, Florida Statutes.

13. Notice. All notices, consents, approvals, waivers, and elections that either Party requests or gives under this Agreement shall be in writing and shall be provided by certified mail, return receipt requested, or by hand delivery for which a receipt is obtained. Notices shall be mailed or delivered to the addresses set forth below or as either Party may otherwise designate in writing.

If to the County: County of Volusia
Attn: County Manager
Copy to: County Attorney
123 West Indiana Avenue
DeLand, FL 32720

If to the City: City of Daytona Beach
Attn: City Manager
Copy to: City Attorney
301 South Ridgewood Avenue
Daytona Beach, FL 32114

Notices, consents, approvals, waivers, and elections will be deemed given when received by the Party for whom intended.

14. Sole Benefit. This Agreement is solely for the benefit of the City and the County, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party. Nothing in this Agreement, either expressed or implied, is intended or shall be construed to confer upon or give any person, corporation or governmental entity other than the Parties any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, and all of the provisions, representations, covenants, and conditions herein contained shall inure to the sole benefit of and shall be binding upon the Parties and their respective representatives, successors and assigns.

15. Authority. The City and the County each represent and warrant to the other its respective authority to enter into this Agreement, acknowledge the validity and enforceability of this Agreement. The City and the County hereby represent, warrant and covenant this Agreement constitutes a legal, valid and binding contract enforceable by the Parties in accordance with its terms, and that the enforceability hereof is not subject to any impairment by the applicability of any public policy or police powers.

16. Enforcement. This Agreement shall be enforceable by the Parties hereto by whatever remedies are available in law or equity, including but not limited to injunctive relief and specific performance. Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof shall not be deemed as a waiver (or continuing waiver) of such terms, covenants, or conditions; nor shall any waiver or relinquishment of any right or power hereunder be deemed to be a waiver or relinquishment of such right or power at any other time.

17. Defense. If this Agreement or any portion hereof is challenged by any judicial, administrative, or appellate proceeding (each Party hereby agreeing with the other not to initiate or acquiesce to such challenge or not to appeal any decision invalidating any portion of this Agreement), the Parties collectively and individually agree, at their individual sole cost and expense, to defend in good faith its validity through to a final judicial determination, unless both Parties mutually agree in writing not to defend such challenge or not to appeal any decision invalidating any portion of this Agreement.

18. Amendments. Amendments to the Agreement may be offered by either Party at any time. Proposed amendments shall be in writing and must be approved by a majority of the governing bodies of each Party. No amendment shall be effective until approved by the governing bodies of the City and the County.

19. Supremacy. The Parties agree and covenant, having given and received valuable consideration for the promises and commitments made herein, it is their desire, intent and firm agreement to be bound by and observe the terms of this Agreement. Except as otherwise provided by this Agreement or by law, in the event the terms of this Agreement conflict with previous agreements between the Parties, the terms of this Agreement shall control; provided however that all other terms of existing agreements remain in full force and effect.

20. Entire Understanding. Except as otherwise specifically set forth herein, this Agreement embodies and constitutes the entire understanding of the Parties with respect to the subject matters addressed herein, and all prior agreements, understandings, representations and statements, oral or written, are superseded by this Agreement. The City and the County further acknowledge that they each participated in drafting this Agreement, and in the event of a dispute regarding the Agreement, it shall not be construed by a court of competent jurisdiction or other tribunal more or less favorably on behalf of either Party on the basis of a claim that a Party did not participate in drafting the Agreement or any part thereof.

21. Governing Law and Venue. The laws of the State of Florida shall govern this Agreement, and venue for any action to enforce the provisions of this Agreement shall only be in the Circuit Court in and for Volusia County, Florida. Federal Jurisdiction and venue, if applicable shall only be in the Middle District of Florida, Orlando Division. If circumstances arise which cause a conflict between this paragraph and paragraph 12 ("Dispute Resolution") paragraph 12 shall control.

22. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provision hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

23. Compliance with Chapter 171, Part II, Florida Statutes. The Parties agree that this Agreement meets the requirements of Chapter 171, Part II, Florida Statutes. The Parties intend for this Agreement to be broadly construed to effectuate the purposes and provisions set forth herein, specifically those provisions that provide for the transfer of powers over lands within the JPA/MSA by the City and the County; and the authority by the City to exercise powers extraterritorially over said lands, including, but not necessarily limited to, the application and enforcement of the codes.

24. Amendment of Intergovernmental Coordination Element of Comprehensive Plans. Consistent with Section 171.203(9), Florida Statutes, the Parties, within six (6) months of the effective date of this Agreement, shall amend their respective Intergovernmental Coordination Elements of their adopted comprehensive plans to establish consistency and compliance with this Agreement.

25. Adoption by County. The County shall adopt this Agreement by ordinance in accordance with Sections 171.203(14) and 125.66, Florida Statutes.

26. Adoption by City. The City shall adopt this Agreement by ordinance in accordance with Sections 171.203(14) and 166.041, Florida Statutes.

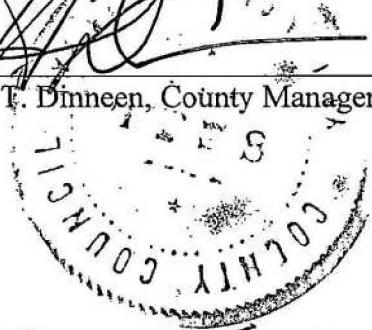
IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on behalf of the respective Party set forth below, pursuant to the authority granted to each of the undersigned in the ordinance by which each Party approved and adopted this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK-SIGNATURES TO FOLLOW]

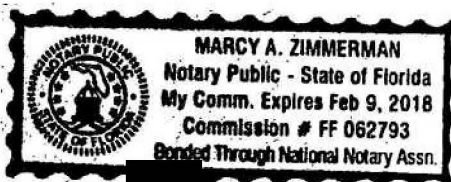
COUNTY OF VOLUSIA

Approved by: Mannon Ellen
County Attorney's Office

By: Ed Kelley
Ed Kelley, County Chair
Attest: James T. Dinneen
James T. Dinneen, County Manager

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 30 day of June, 2017, by Ed Kelley and James T. Dinneen, as County Chair and County Manager, respectively, on behalf of the County of Volusia. They are ☒ personally known to me, or ☒ have produced _____ as identification.



Marcy A. Zimmerman
Notary Public, State of Florida at Large
Printed, typed or stamped name, commission and expiration of commission term.

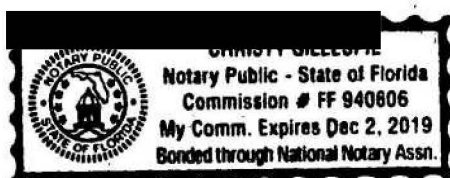
CITY OF DAYTONA BEACH

Approved by: Robert Jagger
Robert Jagger, City Attorney

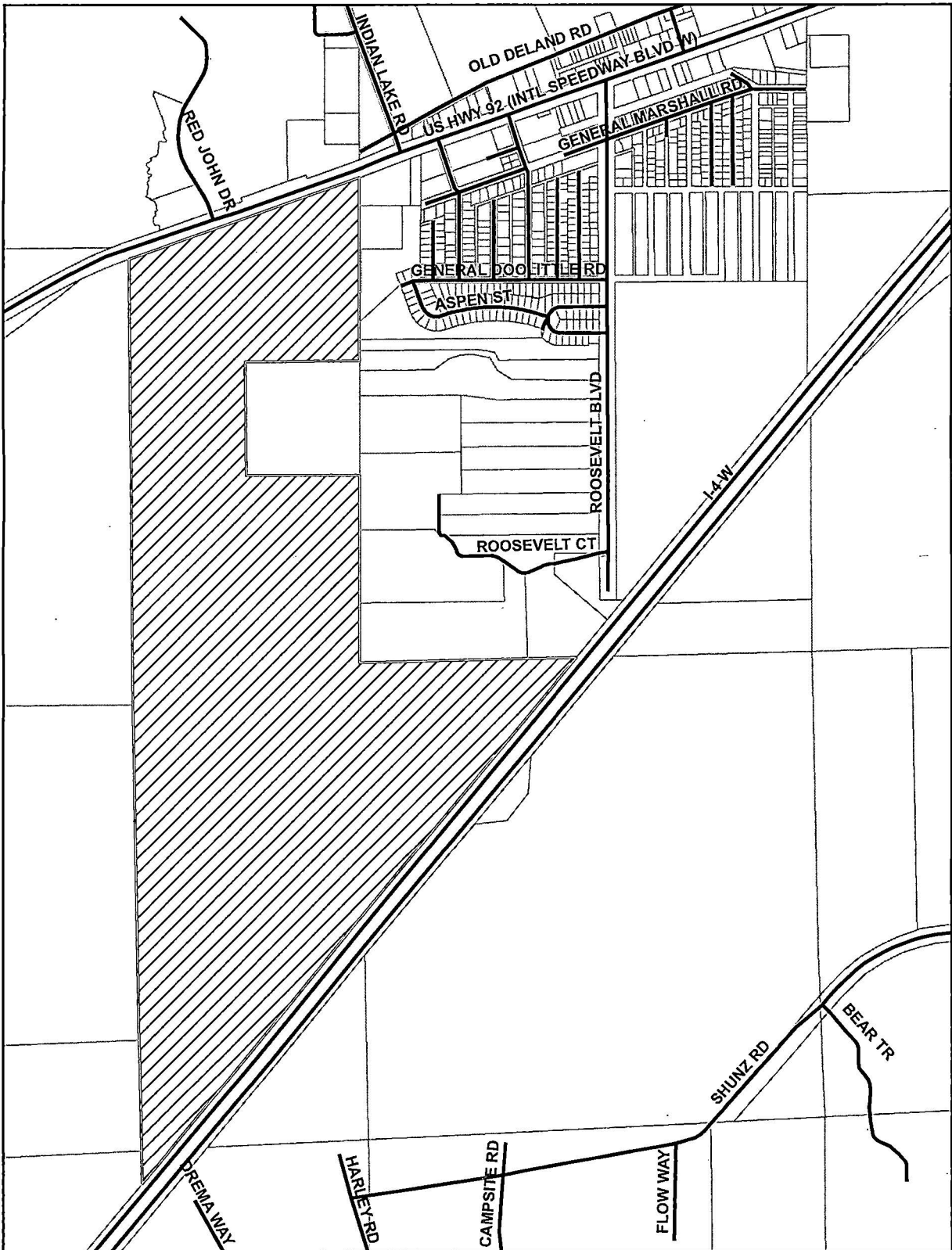
By: Derrick L. Henry
Derrick L. Henry, Mayor
Attest: Letitia LaMagna
Letitia LaMagna, City Clerk

STATE OF FLORIDA
COUNTY OF VOLUSIA

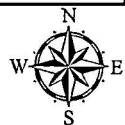
The foregoing instrument was acknowledged before me this 21 day of JUNE, 2017, by Derrick L. Henry, as Mayor of the City of Daytona Beach. He ☒ is personally known to me, or ☐ has produced _____ as identification.



Christy Gillette
Notary Public, State of Florida at Large
Printed, typed or stamped name, commission and expiration of commission term.



Map 1
ISBA/JPA/MSA Area



1 inch = 1,750 feet