



TOWN OF PALM BEACH

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

JANUARY 11, 2022

9:30 AM

Welcome

For information regarding this agenda and the procedures for public participation at Town Council Meetings, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Danielle H. Moore, Mayor
Margaret A. Zeidman, President
Bobbie Lindsay, President Pro Tem
Julie Araskog
Ted Cooney
Lew Crampton

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. MODIFICATIONS TO THE AGENDA

IV. APPROVAL OF AGENDA

V. BOARD AND COMMISSIONS PRESENTATIONS AND APPOINTMENTS

- A. Presentations By the Applicants and Appointments to the Shore Protection Board**

Page 8

Pat Gayle-Gordon, Acting Town Clerk

VI. COMMENTS OF MAYOR DANIELLE H. MOORE

VII. COMMENTS OF TOWN COUNCIL MEMBERS

VIII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

IX. APPROVAL OF CONSENT AGENDA (SEE NOTE 5)

A. MINUTES

1. Town Council Meeting Minutes

Page 35

Pat Gayle-Gordon, Acting Town Clerk

December 7, 2021, Special Town Council Meeting

December 10, 2021, Special Town Council Meeting

December 14, 2021, Town Council Meeting

December 15, 2021, Town Council Development Review Meeting

2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of December 17, 2021.

Page 84

Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 161-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to Hedrick Brothers Construction Company Inc. for Modular Building Systems to House North Fire Staff during Rehabilitation of the Station as part of Pre-construction Services in the Amount of \$534,449 for a total Purchase Order of \$1,393,208.

Page 108

Dean Mealy, Purchasing Manager

2. RESOLUTION NO. 001-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Department of Public Works Engineering Division Standard Applicable to Public Rights of Way and Easements, by Changing the Title and Amending Chapter XII, Miscellaneous Provisions, Construction Parking.

Page 118

Wayne Bergman, Director of Planning, Zoning and Building

3. RESOLUTION NO. 002-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of ITB No. 2022-08, A-7 Pump Station Improvement to TLC Diversified, Inc. in the Amount of \$333,000 and Establishing a Project Budget of \$383,000.

Page 127

Dean Mealy, Purchasing Manager

4. RESOLUTION NO. 003-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFQ No. 2022-05, Prequalification of General Utility Project Vendors to the Following Four Firms: D.S. Eakins Construction Corporation, Johnson-Davis Inc., TLC Diversified Inc. and Hinterland Group, Inc. Page 133

Dean Mealy, Purchasing Manager

5. RESOLUTION NO. 004-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFQ No. 2022-06, Prequalification of General Utility Project Vendors to the following four Firms: Murray Logan Construction, LLC, TLC Diversified, Inc., Kiewit Infrastructure South Co., and Hinterland Group, Inc. Page 139

Dean Mealy, Purchasing Manager

6. RESOLUTION NO. 005-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Piggyback Contract to Convergent Technologies for Public Safety Camera System in the Amount of \$200,000. Page 146

Dean Mealy, Purchasing Manager

C. OTHER

1. Updated Request from the Palm Beach Navy SEAL Evening of Tribute Page 150

Jay Boodheshwar, Deputy Town Manager

2. Annual Report from Palm Beach Island Cats Page 153

David Levitt, Palm Beach Island Cats

X. BOARD/COMMISSION ANNUAL REPORT

- A. Annual Report of the Recreation Advisory Commission Page 156

Nicholas Coniglio, Chair

XI. COMMITTEE REPORTS

- A. Report of the Business and Administrative Committee Meeting Held on December 8, 2021 Page 163

Lew Crampton, Chair

1. Proposed Conversion of Twelve (12) 2-Hour Parking Spaces on the 200/300 Block of Worth Avenue to 30-Minute Parking Spaces

Jay Boodheshwar, Deputy Town Manager

XII. REGULAR AGENDA

- A. **Matters Pulled From Consent Agenda: If needed**

- B. **Old Business**

1. COVID-19 Situation Update Page 171

Kirk W. Blouin, Town Manager

a. COVID-19 Monthly Report
Darrel Donatto, Fire Rescue Chief

b. RESOLUTION NO. 010-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Concurring with the Request of the Town's Chief of Police, to Extend the Chief's Declaration of the Existence of a State of Emergency within the Corporate Limits of the Town to February 8, 2022, Unless Earlier Terminated by the Chief of Police, at which time the Town Council will Address the Need for any Extension of the Declaration of Emergency; Providing for an Effective Date.

2. Town-wide Undergrounding Project
H. Paul Brazil, P.E., Director of Public Works

Page 175

a. Review of Project and Dashboard, Summary of Project Status

b. RESOLUTION NO. 006-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Modification No. 1 to State Grant of Florida Division of Emergency Management Contract No. H0374, Between the State of Florida Division of Emergency Management and the Town of Palm Beach Under the FEMA Disaster Declaration No. 4337 for Hurricane Irma, Specifically Reimbursement for Utility Protection Measures Within the Town Utility Undergrounding Project in the Modified Amount of \$8,062,242.74, Authorizing the Town Manager to Execute Same on Behalf of the Town, and Authorizing the Town Manager to Execute Future Modifications on Behalf of the Town.

3. Update from John Potts Regarding the Work of the City of West Palm Beach's Panel of Water Quality Experts

Page 203

TIME CERTAIN: 3:00 PM

H. Paul Brazil, P.E., Director of Public Works

4. North Fire Station Renovation Update
H. Paul Brazil, P.E., Director of Public Works

Page 205

5. Discussion Regarding Meeting Options for the Retirement Board of Trustees

Margaret A. Zeidman, Town Council President

C. New Business

1. Proposed New Benefit for Public Safety Personnel Provided by the Palm Beach Police and Fire Foundation

Page 208

RESOLUTION NO. 015-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Council to Enter into an Agreement with the Palm Beach First Responder's Foundation, Inc. to Establish a Retirement Plan

for Town of Palm Beach Police Department and Fire Department Employees that will be Funded and Maintained by the Foundation; Approving the Terms of the Retirement Plan; Authorizing the Mayor to Execute on Behalf of the Town Council; Providing for Severability; Providing for Full Force and Effectiveness; Providing for Repeal of Conflicting Resolutions; and Providing an Effective Date.

TIME CERTAIN: 11:00 AM

Kirk W. Blouin, Town Manager

2. Florida Power and Light's (FPL) Request for Waiver of Construction Limitations in the Right-of Way Between December 1, 2021 and May 1, 2022

Page 277

H. Paul Brazil, P.E., Director of Public Works

3. Request from Contractor to Restart Work at 1191 North Lake Way

Page 282

H. Paul Brazil, P.E., Director of Public Works

4. Discussion Regarding Additional Modifications to Construction and Landscaping Hours During the Holiday Season

Bobbie Lindsay, Council President Pro Tem

5. Discussion Regarding Potential Resolution Requesting that the State of Florida Allow Non-Agricultural Communities to Enact Local Policies to Regulate Chemical Applications

Bobbie Lindsay, Council President Pro Tem

XIII. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Chapter 18 of the Town Code and the Public Works Right of Way Manual to Include Certain Construction Site Violations as "Strikes" Under the "Three Strike Program"

Page 290

ORDINANCE NO. 28-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 18, Buildings and Building Regulations, by Creating Article VII. - Construction Site Management, and by Adding Sections 18-309 and 18-310; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Wayne Bergman, Director of Planning, Zoning and Building

2. Proposed Ordinance to Amend Chapter 42 of the Town Code, Relative to Lawn Maintenance and Prohibited Acts

Page 293

ORDINANCE NO. 29-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 42 of the Town Code of Ordinances at Article V. Noise at Section 42-197. Specific Acts Prohibited and at Section 42-230. Lawn Maintenance; Providing for Severability; Providing for Repeal of Ordinances in Conflict Herewith; Providing for Codification;

Providing an Effective Date.

Jay Boodheshwar, Deputy Town Manager

3. Proposed Ordinance to Amend Chapter 74, Article V of the Town Code to Grant Beach Access to Root Trail Residents Page 298

ORDINANCE NO. 30-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Ordinance 21-2021 at Article V. - Beach Access Closure at Section 74-281. - Limited Closure of Access from Wells Road South to Sunset Avenue, to Include a New Subsection 2 Recognizing the Right of Root Trail Property Owners to have Continuous Access to the Beach Access Area located at Root Trail; Providing for Severability; Providing for Repeal of Ordinances in Conflict Herewith; Providing for Codification; Providing an Effective Date.

John C. Randolph, Town Attorney

XIV. ANY OTHER MATTERS

XV. ADJOURNMENT

PLEASE TAKE NOTE:

Note 1: Please submit written comments/materials to council@townofpalmbeach.com or in person to the Town Clerk's Office, located at Town Hall, 360 South County Road. No written materials received after 3:30 p.m. on the Wednesday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 3:30 p.m. on Wednesday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.

Note 2: The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Technology (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.

Note 3: If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she 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.

Note 4: Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-

800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

Note 5: Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.

Note 6: All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Town Council meeting. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

PROCEDURES FOR PUBLIC PARTICIPATION

Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you.

PUBLIC HEARINGS: Any citizen is entitled to be heard on an official agenda item under the section entitled "Public Hearings," subject to the three minute limitation.

COMMUNICATIONS FROM CITIZENS: Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to the three minute limitation. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

OTHER AGENDA ITEMS: Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to the three minute limitation.

Town Council Meetings are public business meetings and, as such, the Town Council retains the right to limit discussion on any issue.

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Board and Commissions Presentations and Appointments

Agenda Title

Presentations By the Applicants and Appointments to the Shore Protection Board

Presenter

Pat Gayle-Gordon, Acting Town Clerk

ATTACHMENTS:

- ▣ **Memorandum Dated January 5, 2022, from Pat Gayle-Gordon, Acting Town Clerk**
- ▣ **Attendance Record**
- ▣ **Status Sheet**
- ▣ **Sample Ballot**
- ▣ **Application - Warren Belmar**
- ▣ **Application - Peter Matwiczuk**
- ▣ **Application - Ronald Matzner**
- ▣ **Application - Harvey L. Poppel**
- ▣ **Application - Doug Rogers**

TOWN OF PALM BEACH

Information for Town Council Meeting on January 11, 2022

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Jay Boodheshwar, Deputy Town Manager

FROM: Pat Gayle-Gordon, Acting Town Clerk

RE: Shore Protection Board Appointment of Four (4) Regular Members

DATE: January 5, 2022

STAFF RECOMMENDATION

Staff recommends that the Town Council review the attached applications and appoint four (4) regular members to the Shore Protection Board. These members will fill the vacancies created on the term expirations for Kane Baker, James C. Gavigan and Reuben Johnson who are termed out and Warren Belmar who is eligible for reappointment.

GENERAL INFORMATION

The Town Clerk's office has received one (1) application seeking **REAPPOINTMENT** from:

1. Warren Belmar – 130 Sunrise Avenue, Apt. 319, Palm Beach, FL.

The Town Clerk's office has received four (4) applications seeking **NEW APPOINTMENT** from the following:

1. Peter Matwiczuk – 1215 North Lake Way, Palm Beach, FL;
2. Ronald Matzner – 3120 S. Ocean Blvd., #2-102, Palm Beach, FL;
3. Harvey L. Poppel – 110 El Mirasol, Palm Beach, FL;
3. Doug Rogers – 109 Atlantic Avenue, Palm Beach, FL.

Attachments

cc: H. Paul Brazil, P.E., Director of Public Works
Rob Weber, Coastal Program Manager

SHORE PROTECTION BOARD ATTENDANCE RECORD 2021

1-11-22 TCM Backup

MEMBERS	January 21, 2021	WORKSHOP February 11, 2021	May 27, 2021	November 18, 2021
Clerked By:	Lynne Menniti	Lynne Menniti	Lynne Menniti	Lynne Menniti
Baker	P	P	P	P
Belmar	P	P	P	P
Ceriale	P	P *Arrived 9:06	P	P
Gavigan	P	P	P	P
Johnson	P	P *Arrived 9:30	P	EA
Rapoport	P	P	P	P
Reickert	P	P	P	P

Legend:

S=Special Meeting, P=Present, E-Excused, U=Unexcused,

A=Absence pending classification as excused or unexcused

V=Eligible to Vote in Meeting

**** Allowed 2 unexcused absences per calendar year**

****Attendance:**

Members must attend more than two meetings in one calendar year

Excused absences: illness, family death, religious holiday, legal process

Must notify PW of absence no later than noon on Friday prior to meeting, unless emergency

Excused absences shall be noted in the minutes of the next meeting after the absence

SHORE PROTECTION BOARD

Next appointment: January 11, 2022, Town Council meeting

Openings advertised via news release: 10/01/21

Deadline to submit applications: December 03, 2021, by 5:00 p.m.

Number of openings: 4 Regular Members

Applicants

<u>NAME</u>	<u>SEEKING</u>
Peter Matwiczuk	New Appointment
Ronald Matzner	New Appointment
Harvey L. Poppel	New Appointment
Doug Rogers	New Appointment
Leonard Zack	New Appointment (Not eligible)
Warren Belmar	Reappointment

Current members and open seats

<u>NAME</u>	<u>TERM EXPIRES</u>
<u>Regular Members</u>	
Kane K. Baker – Chair**	December, 2021
Warren Belmar*	December, 2021
Melissa Cerialle	December, 2022
James C. Gavigan**	December, 2021
Reuben B. Johnson**	December, 2021
Erick Reickert	December, 2022
Vladimir Rapoport	December, 2022

Highlighted in yellow=term currently expiring

*=Applied for reappointment

**=Termed out

BALLOT FOR APPOINTMENT OF **REGULAR** MEMBER(S)
TO THE **SHORE PROTECTION BOARD**
Town Council Meeting on **January 11, 2022**

Positions to be filled: 4 Regular Members

Please circle 4 from the list of names appearing below

Regular Member Applying for Reappointment

Warren Belmar

Others Who Have Submitted Applications

(Listed Alphabetically)

Peter Matwiczuk

Ronald Matzner

Harvey L. Poppel

Doug Rogers

Signature of Town Council Member: _____
Town Council Member



2021 OCT 28 AM 3:00 PM

TOWN OF PALM BEACH
APPLICATION FOR SERVICE ON
SHORE PROTECTION BOARD

RECEIVED
OCT 28 2021
Town Clerk's Office

RECEIVED

Please complete the application by typing or printing legibly in ink. Applications should be submitted to the Town Clerk (360 South County Road, Palm Beach, FL 33480, via facsimile 561-838-5417, or via e-mail to townclerk@townofpalmbeach.com) no later than 5 p.m., 11 calendar days prior to the Town Council meeting in which the appointment will be considered. Completion of this application requires that applicant has reviewed certain Town documents as noted in this application. To review or obtain a copy of the documents please contact the Town Clerk's Office (561-838-5416). Please feel free to attach any additional background information to this application form.

Name: Warren Belmar E-mail Address: warrenbelmar@gmail.com

Residence Address: 130 Sunrise Avenue. Apt. 319, Palm Beach, Florida 33480

Mailing Address: 130 Sunrise Avenue. Apt. 319, Palm Beach, Florida 33480

Home Telephone: 561-833-1022 Work Telephone: 202-255-1586

I am a resident of the Town of Palm Beach WB (please initial) WB

Please attach proof of Town of Palm Beach residency. Failure to attach proof of residency shall be grounds to reject your application. Proof of residency shall be either a copy of your Florida Driver's License matching the address of your residence as shown on this application, a copy of a utility bill in your name at the residence address shown on this application, or by providing an original, fully executed and notarized Declaration of Domicile with this application.

1. Why are you interested in serving on the Shore Protection Board?

As a resident, I am concerned about threats from storms and sea level rise to our ocean and intercoastal shorelines, beaches, and
Town and private property. Service on the Shore Protection Board will allow me to participate in helping the Town address these concerns
for the benefit of residents and visitors.

2. How many meetings of the Shore Protection Board have you attended in the last year? All.

3. If you have served on any boards/commissions/committees in the Town of Palm Beach or elsewhere, please list them and include details such as length of service, attendance records, etc.

Since 2018, I have served as an alternate and member of the Shore Protection Board. I currently serve on the Florida Advisory Committee
to the U.S. Commission on Civil Rights, and as a senior fellow at the Administrative Conference of the United States. No missed meetings.

4. Please indicate if there are any periods of time for which you will be unavailable for meetings.

None.

5. Please list your qualifications specifically relevant to shore protection, including any degrees or certifications you may possess.

Serving as a member on the Shore Protection Board since 2018 has allowed me to become knowledgeable of the issues facing the Town,

Being an attorney has facilitated working with Town staff in developing Shore Protection Board recommendations to the Town Council.

6. Please describe your experience with the design and/or construction of coastal protection projects.

None.

7. Please describe any particular knowledge or experience you may have regarding alternative or emerging shore protection technology or coastal management processes.

None.

8. Are you a member of any of the following organizations? (Check all that apply)

☐ Palm Beach Chamber of Commerce

☐ Preservation Foundation of Palm Beach

☒ Palm Beach Civic Association

☐ North End Property Owners Association

☐ Citizens' Association of Palm Beach

☐ Neighborhood Alliance of Palm Beach

☐ Other _____

9. Present occupation: Retired Number of years 12

Employer: _____

10. Past occupation(s): Attorney Number of years 55

Employer(s): United States (Judiciary, DOJ and DOE); Fulbright & Jaworski LLP; Capitol Counsel Group, LLC

11. Please provide details regarding your educational background.

I graduated with honors from Brooklyn College (BA 1963) and Columbia Law School (LL.B/JD 1966).

12. To enable the Town Council to consider potential conflicts of interest, please provide the following information regarding family members who live and/or work in the Town of Palm Beach including your spouse, parents, siblings, or children, as applicable.

Family Member Name	Relationship	Address	Occupation	Employer
Rebecca Belmar	Daughter	130 Sunrise Ave	N/A	N/A

13. Have you ever been convicted of a crime or pled guilty or nolo contendere to a crime other than minor traffic violations. No

14. If you are currently serving on a Town board, commission, or committee, please identify it in the space below and check the box that indicates you will resign from that position if you are appointed to the position you are seeking in this application.

☐ I will resign from the _____ if I am appointed to the position I am
(board/commission/committee)
seeking in this application.

The following information is needed to facilitate Town reporting requirements in Florida Statute 760.80. Please check one in each category.

RACE

- ☐ African American
☐ Asian American
☐ Hispanic American

- ☐ Native American
☒ Caucasian
☐ Not known

GENDER

- ☒ Male ☐ Female

PHYSICALLY DISABLED

- ☐ Yes ☒ No

I hereby certify that I have read the sections of the Town Code of Ordinances for the particular board/commission/committee that I have selected above and have noted the description of the board/commission/committee and its members' duties, and further I have read the regulations concerning absences and conflicts of interests. I certify the information given by me is true and complete to the best of my knowledge and belief. I understand that any falsification of material facts will be grounds for rejection of this application or dismissal after appointment.

Signature: Warren Behner Date: October 26, 2021

Please attach proof of Town of Palm Beach residency (as listed on page 1) with this application.

Please note that Board/Commission applications will expire on December 15 of each year.

SHORE PROTECTION BOARD

The Shore Protection Board acts in an advisory capacity and makes recommendations to the Town Council in matters relating to shore protection, coastal management, beach nourishment, coastal armoring, the sand transfer plant, and matters relating to the Town's Lake Worth lagoon shoreline. The scope of the Board shall include long term planning, budgeting, lobbying, public education, and intergovernmental coordination.

Members of the Board shall possess knowledge of or interest in shore protection, coastal management, and/or beach nourishment. The Board shall be composed of seven members to be appointed by the Town Council. Members of the Board shall serve for terms of three years. Each member of the Board is required to be a resident of the Town of Palm Beach, except that one member of the Board may be a non-Town resident who possesses specific knowledge or skills directly related to shore protection, coastal management, and beach nourishment. The Board shall hold at least four meetings per year and more if deemed necessary.

**PETER MATWICZYK
1215 NORTH LAKE WAY
PALM BEACH, FLORIDA 33480**

October 20, 2021

Via Email townclerk@townofpalmbeach.com

Town Clerk of Palm Beach
360 South County Road
Palm Beach, FL 33480

Re: Application for Service on Shore Protection Board

Dear Madam Clerk:

Please find my Application for Service on the Shore Protection Board. If the Application is in order, please have it submitted to the Town Council for consideration.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter Matwiczuk", with a stylized flourish at the end.

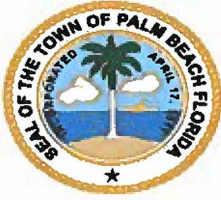
PETER MATWICZYK

PM/las

Enclosures: As stated above

RECEIVED

By gayle at 5:20 pm, Oct 20, 2021



TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

SHORE PROTECTION BOARD

Please complete the application by typing or printing legibly in ink. Applications should be submitted to the Town Clerk (360 South County Road, Palm Beach, FL 33480, via facsimile 561-838-5417, or via e-mail to townclerk@townofpalmbeach.com) no later than 5 p.m., 11 calendar days prior to the Town Council meeting in which the appointment will be considered. Completion of this application requires that applicant has reviewed certain Town documents as noted in this application. To review or obtain a copy of the documents please contact the Town Clerk's Office (561-838-5416). Please feel free to attach any additional background information to this application form.

Name: Peter Matwiczuk E-mail Address: pmatwiczuk@bflaw.com

Residence Address: 1215 North Lake Way, Palm Beach, Florida 33480

Mailing Address: Same as residence

Home Telephone: 561.844.6868 Work Telephone: 561.619.8419

I am a resident of the Town of Palm Beach PM (please initial) PGG

Please attach proof of Town of Palm Beach residency. Failure to attach proof of residency shall be grounds to reject your application. Proof of residency shall be either a copy of your Florida Driver's License matching the address of your residence as shown on this application, a copy of a utility bill in your name at the residence address shown on this application, or by providing an original, fully executed and notarized Declaration of Domicile with this application.

1. Why are you interested in serving on the Shore Protection Board?

I am a long time resident of the North End (Mockingbird and North Lake Way) for nearly 30 years. I have seen changes in that time, and

I want to help improve and preserve what we are fortunate to have.

2. How many meetings of the Shore Protection Board have you attended in the last year? 0

3. If you have served on any boards/commissions/committees in the Town of Palm Beach or elsewhere, please list them and include details such as length of service, attendance records, etc.

None

4. Please indicate if there are any periods of time for which you will be unavailable for meetings.

None

5. Please list your qualifications specifically relevant to shore protection, including any degrees or certifications you may possess.

No degrees. My only qualification is my interest in protecting the Town's shoreline and beaches.

6. Please describe your experience with the design and/or construction of coastal protection projects.

None

7. Please describe any particular knowledge or experience you may have regarding alternative or emerging shore protection technology or coastal management processes.

None, but I am eager to spend time to learn. I am willing to devote the time and effort to bring my knowledge base to a level of proficiency in the technology for shore protection and the status of beach renourishment efforts.

8. Are you a member of any of the following organizations? (Check all that apply)

- | | |
|--|--|
| ☐ Palm Beach Chamber of Commerce | ☐ Preservation Foundation of Palm Beach |
| ☐ Palm Beach Civic Association | ☐ North End Property Owners Association |
| ☐ Citizens' Association of Palm Beach | ☐ Neighborhood Alliance of Palm Beach |
| ☐ Other _____ | |

9. Present occupation: Lawyer Number of years 40

Employer: Boyes, Farina & Matwiczuk

10. Past occupation(s): None Number of years _____

Employer(s): _____

11. Please provide details regarding your educational background.

College. History major: Two law degrees: JD and LLM in taxation.

12. To enable the Town Council to consider potential conflicts of interest, please provide the following information regarding family members who live and/or work in the Town of Palm Beach including your spouse, parents, siblings, or children, as applicable.

Family Member Name	Relationship	Address	Occupation	Employer
None				

13. Have you ever been convicted of a crime or pled guilty or nolo contendere to a crime other than minor traffic violations. No

14. If you are currently serving on a Town board, commission, or committee, please identify it in the space below and check the box that indicates you will resign from that position if you are appointed to the position you are seeking in this application.

☐ I will resign from the _____ if I am appointed to the position I am
(board/commission/committee)
seeking in this application.

The following information is needed to facilitate Town reporting requirements in Florida Statute 760.80. Please check one in each category.

RACE

- ☐ African American
☐ Asian American
☐ Hispanic American

- ☐ Native American
☒ Caucasian
☐ Not known

GENDER

- ☒ Male ☐ Female

PHYSICALLY DISABLED

- ☐ Yes ☒ No

I hereby certify that I have read the sections of the Town Code of Ordinances for the particular board/commission/committee that I have selected above and have noted the description of the board/commission/committee and its members' duties, and further I have read the regulations concerning absences and conflicts of interests. I certify the information given by me is true and complete to the best of my knowledge and belief. I understand that any falsification of material facts will be grounds for rejection of this application or dismissal after appointment.

Signature:  Date: October 20, 2021

Please attach proof of Town of Palm Beach residency (as listed on page 1) with this application.

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SHORE PROTECTION BOARD

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Members of the Board shall possess knowledge of or interest in shore protection, coastal management, and/or beach nourishment. The Board shall be composed of seven members to be appointed by the Town Council. Members of the Board shall serve for terms of three years. Each member of the Board is required to be a resident of the Town of Palm Beach, except that one member of the Board may be a non-Town resident who possesses specific knowledge or skills directly related to shore protection, coastal management, and beach nourishment. The Board shall hold at least four meetings per year and more if deemed necessary.



TOWN OF PALM BEACH
APPLICATION FOR SERVICE ON
SHORE PROTECTION BOARD

RECEIVED
NOV 8 2021
Town Clerk's Office

Please complete the application by typing or printing legibly in ink. Applications should be submitted to the Town Clerk (360 South County Road, Palm Beach, FL 33480, via facsimile 561-838-5417, or via e-mail to townclerk@townofpalmbeach.com) no later than 5 p.m., 11 calendar days prior to the Town Council meeting in which the appointment will be considered. Completion of this application requires that applicant has reviewed certain Town documents as noted in this application. To review or obtain a copy of the documents please contact the Town Clerk's Office (561-838-5416). Please feel free to attach any additional background information to this application form.

Name: Ronald Metzner E-mail Address: rfmetzner@gmail.com

Residence Address: 3120 S Ocean Blvd 2-102, Palm Beach, FL 33480

Mailing Address: SAME

Home Telephone: 202-352-1667 Work Telephone: —

I am a resident of the Town of Palm Beach RM (please initial)

Please attach proof of Town of Palm Beach residency. Failure to attach proof of residency shall be grounds to reject your application. Proof of residency shall be either a copy of your Florida Driver's License matching the address of your residence as shown on this application, a copy of a utility bill in your name at the residence address shown on this application, or by providing an original, fully executed and notarized Declaration of Domicile with this application.

1. Why are you interested in serving on the Shore Protection Board?

Climate change, sea level rise and coastal resiliency will be the defining civic issues of the next decade. As an island community, our property values and quality of life will be determined by our ability to work together to implement sustainable, affordable responses on both the lake and ocean shores.

2. How many meetings of the Shore Protection Board have you attended in the last year? All

3. If you have served on any boards/commissions/committees in the Town of Palm Beach or elsewhere, please list them and include details such as length of service, attendance records, etc.

None

4. Please indicate if there are any periods of time for which you will be unavailable for meetings.

None

5. Please list your qualifications specifically relevant to shore protection, including any degrees or certifications you may possess.

A lifetime of experience in government, law, mediation, politics, advocacy, consulting, media and business has advanced the qualities of consideration, communication, compromise, cooperation, conflict resolution and

6. Please describe your experience with the design and/or construction of coastal protection projects.

Consensus building required for the debate, deliberation and evaluation necessary to the process of good government on an advisory board and in local government generally.

7. Please describe any particular knowledge or experience you may have regarding alternative or emerging shore protection technology or coastal management processes.

None. See answer to 5+6 and attached personal background.

8. Are you a member of any of the following organizations? (Check all that apply)

☐ Palm Beach Chamber of Commerce

☐ Preservation Foundation of Palm Beach

☐ Palm Beach Civic Association

☐ North End Property Owners Association

☒ Citizens' Association of Palm Beach

☐ Neighborhood Alliance of Palm Beach

☐ Other _____

9. Present occupation: Owner + CEO Number of years 17

Employer: TIE Holdings LLC

10. Past occupation(s): See attached Personal Background Number of years _____

Employer(s): _____

11. Please provide details regarding your educational background.

BS Economics, Wharton School, University of Pennsylvania

JD Yale Law School

12. To enable the Town Council to consider potential conflicts of interest, please provide the following information regarding family members who live and/or work in the Town of Palm Beach including your spouse, parents, siblings, or children, as applicable.

Family Member Name	Relationship	Address	Occupation	Employer
Barbara Matzner	Spouse	Same	Owner	TIE Holdings LLC

13. Have you ever been convicted of a crime or pled guilty or nolo contendere to a crime other than minor traffic violations. No

14. If you are currently serving on a Town board, commission, or committee, please identify it in the space below and check the box that indicates you will resign from that position if you are appointed to the position you are seeking in this application.

☐ I will resign from the N/A if I am appointed to the position I am
(board/commission/committee)
seeking in this application.

The following information is needed to facilitate Town reporting requirements in Florida Statute 760.80. Please check one in each category.

RACE

- ☐ African American
☐ Asian American
☐ Hispanic American

- ☐ Native American
☒ Caucasian
☐ Not known

GENDER

- ☒ Male ☐ Female

PHYSICALLY DISABLED

- ☐ Yes ☒ No

I hereby certify that I have read the sections of the Town Code of Ordinances for the particular board/commission/committee that I have selected above and have noted the description of the board/commission/committee and its members' duties, and further I have read the regulations concerning absences and conflicts of interests. I certify the information given by me is true and complete to the best of my knowledge and belief. I understand that any falsification of material facts will be grounds for rejection of this application or dismissal after appointment.

Signature: Ronald Matzen Date: Nov. 5, 2021

Please attach proof of Town of Palm Beach residency (as listed on page 1) with this application.

Please note that Board/Commission applications will expire on December 15 of each year.

SHORE PROTECTION BOARD

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Shore Protection Board Application

Personal Background Addendum to Question 10

GOVERNMENT: Ten years in Washington in the Clinton and Bush Administrations. President Clinton's point person for reducing regulations, in the first term as Associate General Counsel at the SBA and in the second term in the White House as Counselor to the Administrator, Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) through which all executive branch regulations passed for approval. During President Bush's first term, helped coordinate interagency and intergovernmental response to disasters as a consultant working out of the Department of the Interior.

LAW: Twenty years general practice in New Jersey, including Municipal Prosecutor in 4 NJ Townships.

MEDIATION: Licensed mediator in Florida and New Jersey.

INTERNATIONAL CONSULTING: Representing small and medium sized American businesses in the former Soviet Union, and later in Russia and Central Asia.

MEDIA: Publisher of trade and community newspapers in New Jersey.

BUSINESS: Principal in Copa Judaica, House of Raasche and Legacy Judaica, the combination of which is the largest designer, manufacturer and distributor of Judaica, Jewish jewelry and Jewish ceremonial art in North America.

RECEIVED

By gayle at 2:59 pm, Oct 15, 2021



TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

SHORE PROTECTION BOARD

Please complete the application by typing or printing legibly in ink. Applications should be submitted to the Town Clerk (360 South County Road, Palm Beach, FL 33480, via facsimile 561-838-5417, or via e-mail to townclerk@townofpalmbeach.com) no later than 5 p.m., 11 calendar days prior to the Town Council meeting in which the appointment will be considered. Completion of this application requires that applicant has reviewed certain Town documents as noted in this application. To review or obtain a copy of the documents please contact the Town Clerk's Office (561-838-5416). Please feel free to attach any additional background information to this application form.

Name: Harvey L. Poppel E-mail Address: hpoppel@msn.com

Residence Address: 110 El Mirasol, Palm Beach, FL 33480

Mailing Address: Same

Home Telephone: 561-653-8000 Work Telephone: same

I am a resident of the Town of Palm Beach ALP (please initial)

Please attach proof of Town of Palm Beach residency. Failure to attach proof of residency shall be grounds to reject your application. Proof of residency shall be either a copy of your Florida Driver's License matching the address of your residence as shown on this application, a copy of a utility bill in your name at the residence address shown on this application, or by providing an original, fully executed and notarized Declaration of Domicile with this application.

1. Why are you interested in serving on the Shore Protection Board?

1. We reside within 200 feet of the Ocean
2. For the past 20 years, i have studied climate change intensely
3. The Most recent Woods Hole study demands a very thoughtful, comprehensive and affordable plan of action

2. How many meetings of the Shore Protection Board have you attended in the last year? 1

3. If you have served on any boards/commissions/committees in the Town of Palm Beach or elsewhere, please list them and include details such as length of service, attendance records, etc.
10 years on the Executive Committee of the Palm Beach Civic Association

ncluding 4 years as Founder and Chair of their Long-Range Planning Committee during which time i made several TC presentations

Also earlier served as founder and Chair of he PBCA Water Resources Committee focusing on water conservation..

4. Please indicate if there are any periods of time for which you will be unavailable for meetings.

We summer in CA from early-mid May through late October. available for Zoom meetings if in the PM EDT

5. Please list your qualifications specifically relevant to shore protection, including any degrees or certifications you may possess.

Bachelors in Chemical Engineering --RPI 1958

Have studies climate-change and associated sea-level rise intensely over the past 20 years.

6. Please describe your experience with the design and/or construction of coastal protection projects.

None

7. Please describe any particular knowledge or experience you may have regarding alternative or emerging shore protection technology or coastal management processes.

I have examined recent projects in NYC, Jersey Shore, Miami as well as Holland to combat sea-level rise.

8. Are you a member of any of the following organizations? (Check all that apply)

☐ Palm Beach Chamber of Commerce

☒ Preservation Foundation of Palm Beach

☒ Palm Beach Civic Association

☐ North End Property Owners Association

☐ Citizens' Association of Palm Beach

☐ Neighborhood Alliance of Palm Beach

☐ Other _____

9. Present occupation: Retired Number of years 25

Employer: _____

10. Past occupation(s): Information Technology Number of years 38

Employer(s): Booz, Allen (Sr. VP founder & head of IT practice), Broadview Assoc. (M&A Gen. Partner), Others

11. Please provide details regarding your educational background.

B.S. in Chemical Eng. RPI 1958

M.S. Management RPI 1959

Numerous post-graduate courses--Univ. of Pittsburgh

12. To enable the Town Council to consider potential conflicts of interest, please provide the following information regarding family members who live and/or work in the Town of Palm Beach including your spouse, parents, siblings, or children, as applicable.

Family Member Name	Relationship	Address	Occupation	Employer
Lee	spouse	same	retired	

13. Have you ever been convicted of a crime or pled guilty or nolo contendere to a crime other than minor traffic violations. No

14. If you are currently serving on a Town board, commission, or committee, please identify it in the space below and check the box that indicates you will resign from that position if you are appointed to the position you are seeking in this application.

☐ I will resign from the _____ if I am appointed to the position I am
(board/commission/committee)
seeking in this application.

The following information is needed to facilitate Town reporting requirements in Florida Statute 760.80. Please check one in each category.

RACE

- ☐ African American
☐ Asian American
☐ Hispanic American

- ☐ Native American
☒ Caucasian
☐ Not known

GENDER

- ☒ Male ☐ Female

PHYSICALLY DISABLED

- ☐ Yes ☒ No

I hereby certify that I have read the sections of the Town Code of Ordinances for the particular board/commission/committee that I have selected above and have noted the description of the board/commission/committee and its members' duties, and further I have read the regulations concerning absences and conflicts of interests. I certify the information given by me is true and complete to the best of my knowledge and belief. I understand that any falsification of material facts will be grounds for rejection of this application or dismissal after appointment.

Signature: Harvey L. Poppel Date: 10/15/2021

Please attach proof of Town of Palm Beach residency (as listed on page 1) with this application.

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TOWN OF PALM BEACH
APPLICATION FOR SERVICE ON
SHORE PROTECTION BOARD

RECEIVED
NOV 8 2021
Town Clerk's Office

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Name: DOUG ROGERS E-mail Address: SUNNYMEADE2016@gmail.com

Residence Address: 109 ATLANTIC AVE, PALM BEACH 33480

Mailing Address: - SAME -

Home Telephone: 561-833-3504 ^{cell} Work Telephone: 917-355-5897

I am a resident of the Town of Palm Beach DR (please initial) g

Please attach proof of Town of Palm Beach residency. Failure to attach proof of residency shall be grounds to reject your application. Proof of residency shall be either a copy of your Florida Driver's License matching the address of your residence as shown on this application, a copy of a utility bill in your name at the residence address shown on this application, or by providing an original, fully executed and notarized Declaration of Domicile with this application.

1. Why are you interested in serving on the Shore Protection Board?

TO help PRESERVE OUR WANDERFUL BEACHES

2. How many meetings of the Shore Protection Board have you attended in the last year?

3. If you have served on any boards/commissions/committees in the Town of Palm Beach or elsewhere, please list them and include details such as length of service, attendance records, etc.

Board of Beach CLUB 10 years
Public Company Boards: GERRESHEIMER AG, GERMANY 10 years
Charles River Laboratories, NYSE, - 10 years
Private Company Boards: MPD Chemicals - 7 years
Wilson Greatbatch - 5 years

4. Please indicate if there are any periods of time for which you will be unavailable for meetings.

In person meetings from NOV 1 - JUNE 1
Available by Zoom all other time

5. Please list your qualifications specifically relevant to shore protection, including any degrees or certifications you may possess.

BA. Columbia - courses in chemistry, physics etc
MBA Columbia
Cold Spring Harbor Laboratory Associates Board

6. Please describe your experience with the design and/or construction of coastal protection projects.

none - but have worked with
Rob Wicken and Paul Brand on port issues and
projects and respect their knowledge and diligence

7. Please describe any particular knowledge or experience you may have regarding alternative or emerging shore protection technology or coastal management processes.

8. Are you a member of any of the following organizations? (Check all that apply)

- | | |
|--|--|
| ☐ Palm Beach Chamber of Commerce | ☐ Preservation Foundation of Palm Beach |
| ☐ Palm Beach Civic Association | ☐ North End Property Owners Association |
| ☐ Citizens' Association of Palm Beach | ☐ Neighborhood Alliance of Palm Beach |
| ☐ Other _____ | |

9. Present occupation: Inventor Healthcare Companies Number of years 10+

Employer: Self

10. Past occupation(s): Private Equity Number of years 10+

Employer(s): Blackstone Group

11. Please provide details regarding your educational background.

BSA Columbia College (Chemistry, Psychology)
MBA Columbia University

12. To enable the Town Council to consider potential conflicts of interest, please provide the following information regarding family members who live and/or work in the Town of Palm Beach including your spouse, parents, siblings, or children, as applicable.

Family Member Name	Relationship	Address	Occupation	Employer
NONE				

13. Have you ever been convicted of a crime or pled guilty or nolo contendere to a crime other than minor traffic violations. NO

14. If you are currently serving on a Town board, commission, or committee, please identify it in the space below and check the box that indicates you will resign from that position if you are appointed to the position you are seeking in this application.

☐ I will resign from the NONE if I am appointed to the position I am
(board/commission/committee)
seeking in this application.

The following information is needed to facilitate Town reporting requirements in Florida Statute 760.80. Please check one in each category.

RACE

- ☐ African American
☐ Asian American
☐ Hispanic American

- ☐ Native American
☒ Caucasian
☐ Not known

GENDER

- ☒ Male ☐ Female

PHYSICALLY DISABLED

- ☐ Yes ☒ No

I hereby certify that I have read the sections of the Town Code of Ordinances for the particular board/commission/committee that I have selected above and have noted the description of the board/commission/committee and its members' duties, and further I have read the regulations concerning absences and conflicts of interests. I certify the information given by me is true and complete to the best of my knowledge and belief. I understand that any falsification of material facts will be grounds for rejection of this application or dismissal after appointment.

Signature: _____

Date: _____

11/8/21

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TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda Minutes

Agenda Title
Town Council Meeting Minutes
Pat Gayle-Gordon, Acting Town Clerk

December 7, 2021, Special Town Council Meeting
December 10, 2021, Special Town Council Meeting
December 14, 2021, Town Council Meeting
December 15, 2021, Town Council Development Review Meeting

Presenter

ATTACHMENTS:

- ❑ **December 7, 2021, Special Town Council Meeting Minutes**
- ❑ **December 10, 2021, Special Town Council Meeting Minutes**
- ❑ **December 14, 2021, Town Council Meeting Minutes**
- ❑ **December 15, 2021, Town Council Development Review Meeting Minutes**



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON TUESDAY, DECEMBER 7, 2021

I. CALL TO ORDER AND ROLL CALL

The Town Council Special Meeting of Tuesday, December 7, 2021, was called to order at 9:31 a.m. in the Town Council Chambers. On roll call, all council members were found to be present.

II. PRESENTATIONS

A. A Review of the Town's Comprehensive Plan

Wayne Bergman, Director of Planning, Zoning & Building, presented a PowerPoint Presentation explaining what a Comprehensive Plan is and providing a history of the Town's Comprehensive Plan and its amendments. He explained the elements that comprise the Town's Comprehensive Plan and outlined what is included within the elements. Future Land Use Element, Transportation and Housing Element, as well as Historic Preservation Elements are the primary elements utilized by the Planning, Zoning and Building Department. He outlined specific goals, objectives and policies included in the Future Land Use Element, such as protection of the Town's history and charm, addressing issues with tourism and traffic, the intensification of use, construction of out of scale homes, and promotion of town-serving businesses. He provided background on the Transportation Element and reviewed recommendations made by the Element and outlined the one goal of the Element, as well as its objectives and policies. He also provided background on the Housing Element, spoke regarding the census numbers for the Town, explained what the Element covers and explained that it does not fully address the size of homes, which can be addressed in the next version. He explained the Element's one goal, policies and objectives. He briefly provided an overview of the Infrastructure Element, Coastal/Conservation Element, Recreation/Open Space Element, Intergovernmental Coordination Element, Capital Element, Historic Preservation Element (optional) and Public Safety Element (optional). He addressed the process of comprehensive plan amendments and explained small-scale and large-scale amendments. He spoke regarding the necessity

of ensuring the Town's Zoning Code remains consistent with the Comprehensive Plan. He outlined the next steps for the Comprehensive Plan Amendment process.

B. Discussion on the Review of the Town's Comprehensive Plan

Mayor Moore stated that copies of the Garden's Club original plan have been distributed to Town Council.

In response to a question from Council Member Araskog, Town Attorney Randolph clarified that the Zoning Ordinances must follow the Comprehensive Plan and explained what could be construed as an "intensification of use."

Zoning Manager, Paul Castro, provided further clarification of the Comprehensive Plan Elements and their Goals, Objectives and Policies.

Council President Pro Tem Lindsay spoke regarding the State not being able to preempt the Town's Comp Plan and Director of Planning, Zoning & Building Bergman spoke regarding the approval process and the ability for the State and County to provide input and approval. Council President Pro Tem Lindsay spoke regarding three areas that are impacting the Town: Land Use, Housing and Transportation and she expressed concern that all of the Town's Commissions understand that not just the Zoning Code, but also the Comprehensive Plan should be reviewed when approving projects.

Council Member Crampton spoke regarding the Comprehensive Plan not being a regulatory document and spoke regarding how the census numbers do not reflect the activity of the Town. He spoke regarding the need to make major changes of the Plan. Zoning Manager Castro spoke regarding the 2017 amendment to the Comprehensive Plan, which only updated the data and census numbers.

Council President Zeidman stated that the Comprehensive Plan is at odds with what the Town has become. She spoke regarding the purpose of the workshop and expressed the importance of the Commissions being apprised of the Comprehensive Plan and reviewing it moving forward.

In response to a question from Council Member Cooney, Town Attorney Randolph provided clarification of the role of the Comprehensive Plan to the Commissions. Additionally, Director of Planning, Zoning and Building Bergman spoke regarding the criteria that are required for decisions that come before the Commissions and stated that staff is looking into incorporating the policies and objectives that are included in the Comprehensive Plan in their agenda memos.

Council Member Araskog emphasized the importance of Intergovernmental Relations and Coordination on key issues and the importance of moving quickly on several of the policies to be included in the Comp Plan.

Council President Pro Tem Lindsay requested clarification on the timeline for adopting Code regulations that are consistent with the Comprehensive Plan. She spoke regarding conducting incremental Code reform with amending the Comprehensive Plan.

In response to a question from Council Member Cooney, Director Bergman and Town Attorney Randolph spoke regarding the Town Code and Comp Plan addressing Property Rights legislation.

Council Member Crampton spoke regarding how the State review has been diminished and that the Council should be able to address issues that are relevant to the Town. He spoke regarding three major threats to the Town: a major hurricane, sea level rise, and growth. He spoke regarding principles he will be following while going through this process: respecting tradition while managing change; understanding that the process is as important as the product; and keeping an emphasis on a healthy economy. He spoke regarding the benefit of having three Council Members who have lived in the Town for the majority of their lives.

Council President Zeidman asked a question regarding town-serving businesses and spoke regarding how Worth Avenue is no longer town-serving. Town Attorney Randolph spoke regarding Worth Avenue becoming region-serving prior to the Town Council adopting regulations emphasizing town-serving businesses. Zoning Manager Castro spoke regarding a memo and back up that will be re-distributed to Town Council that outlines the town-serving regulations and what businesses must prove in order to open in the Town. Council President Zeidman stated that an item on town-serving businesses will be on the December Development Review Agenda.

Council President Pro Tem Lindsay spoke regarding how the Code and actions that have been made by the Town Council may not reflect some of the growth policies and goals that are in Comprehensive Plan, such as town-serving businesses and intensification of use, and building of large-scale homes, especially in the R-B District.

Council Member Araskog spoke regarding the proliferation of large-scale homes throughout the entire Town. In response to a question by Council Member Araskog, Zoning Manager Castro explained the history of when the Town adopted regulations pertaining to town-serving businesses and explained the size of businesses that must abide by those regulations.

III. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Anita Seltzer, 44 Cocoanut Row, spoke regarding the knowledge of individuals who have lived in the Town for many years. She spoke regarding the online version of the Comprehensive Plan being a redlined version and requested a clean version, as well as the redlined version that was sent to the State, be made available on the website.

Susan Gary, 229 Onondaga Avenue, expressed support of an extensive review of the Town's Comprehensive Plan and emphasized the importance of the preservation of the Town's neighborhoods.

Anne Pepper, 333 Seaspray Avenue (via Zoom), spoke regarding the issue of the Town's ordinances and actions have not been following the vision, goals and policies of the Comprehensive Plan. She emphasized the importance of having Code reform to maintain the vision and goals of the Comprehensive Plan.

Council President Zeidman spoke regarding the Comprehensive Plan needing to be redlined when it is sent to the State. Discussion ensued regarding the ability for a clean version to be posted on the City website and Director Bergman stated that a clean version would be posted online.

Council Member Araskog requested clarification from Town Attorney Randolph about items in the Executive Summary being included in the policies and goals. He spoke regarding the importance of amending the Town's regulations to follow the goals and policies of the Comprehensive Plan.

Council President Zeidman spoke regarding the Comprehensive Plan being considered the "Constitution" of the Town and that it is very broad. Discussion ensued regarding the importance of reviewing the Zoning Code to ensure that they are consistent with the Comprehensive Plan's goals and objectives.

Mayor Moore expressed appreciation to the Town Council for taking on the large task of a full review of the Comprehensive Plan and reminded the residents that the Town Council is doing its best to make decisions that are best for the entire Town.

V. ADJOURNMENT

The meeting was adjourned at 11:14 a.m. without benefit of a motion.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk



MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON DECEMBER 10, 2021

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order at 9:31 a.m. in the Town Council Chambers. On roll call, all council members were found to be present except Councilmember Araskog.

II. PLEDGE OF ALLEGIANCE

Council President Zeidman led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve the Agenda. On roll call, the Motion passed 4-1 with Council Member Araskog absent.

IV. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT

There was none.

A. RESOLUTIONS

1. RESOLUTION NO. 137-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Declaring the Results of the Town Caucus; Naming Therein the Candidates Nominated and Named in this Resolution, Declaring That a Municipal Election Shall not be Held. *Queenester Nieves, CMC, Town Clerk*

Council President Zeidman read Resolution No. 137-2021 by title.

Motion was made by Council Member Cooney and seconded by Council President Zeidman to approve Resolution No. 137-2021. On roll call, the Motion passed 4-1 with Council Member Araskog absent.

V. PROCLAMATION

- A. Mayor's Proclamation to the Qualified Electors of the Town of Palm Beach Regarding the Town Election of March 8, 2022
Danielle H. Moore, Mayor

Mayor Danielle H. Moore read the Proclamation declaring that there will be no election on March 8, 2022 into the record.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the Mayor's Proclamation to the Qualified Electors of the Town of Palm Beach, Florida declaring that there will be no election on March 8, 2022. On roll call, the Motion passed 4-1 with Council Member Araskog absent.

VI. ADJOURNMENT

Motion was made by Council Member Cooney and seconded by Council Member Lindsay to adjourn the Special Town Council Meeting at 9:38 a.m. On roll call, the Motion passed 4-1 with Council Member Araskog absent.

APPROVED

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

Date



MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, DECEMBER 14, 2021

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order on Tuesday, December 14, 2021 at 9:30 a.m. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Gayle-Gordon gave the invocation and President Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

Council President Zeidman stated that, with all of the mitigation measures, Council Members may remove their masks, if they feel comfortable doing so.

The following modifications were made to the agenda:

- 1) Item No. VIII.B.6.**
RESOLUTION NO. 161-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to Hedrick Brothers Construction Company Inc. for Modular Building Systems to House North Fire Staff during the Rehabilitation of the Station as part of Pre-Construction Services.
Deferred to the January Town Council Meeting
- 2) Item No. IX.B.**
Recognition of Kane Baker for his Service on the Shore Protection Board from December 2009 to December 2021
Addition to Board/Commission Annual Report

- 3) **Item No. IX.C.**
Recognition of James Gavigan for his Service on the Shore Protection Board from December 2015 to December 2021
Addition to Board/Commission Annual Report
- 4) **Item No. XII.D.1.**
Approval of Nominees to Serve on the Strategic Planning Board
TIME CERTAIN: 11:00 AM
- 5) **Item No. XII.D.2.**
Discussion Regarding Shore Protection Board
TIME CERTAIN: 11:30 AM

IV. APPROVAL OF AGENDA

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve the Agenda as amended. On roll call, the Motion passed unanimously.

V. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore congratulated Nina Toscano, Administrative Manager, on her retirement in January and recognized Jim Palmer, who will be leaving the Town in January.

She spoke regarding her attendance at the Civic Association Holiday event at the Breakers; the Ribbon Cutting Ceremony for the new Town Marina; 100th Anniversary Event of the Palm Beach Fire Department; and the Menorah Lighting Events. She spoke regarding the passing of Jerry Goldsmith, former Council Member and member of the Retirement Board. She thanked her fellow Council Members for the previous year and wished everyone a happy holiday season.

VI. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman commended Mayor Moore on her negotiations for the channel dredging project. She also commended the Mayor on her letter regarding the water quality. She mentioned that the next water quality update and the update on the building structural assessment will be presented in January. She spoke regarding an increase in the cases of COVID-19 due to the new variants, but the hospitalizations are not increasing. She encouraged everyone to be fully vaccinated and get the boosters. She spoke regarding letters that have been received by residents regarding electric scooters in Town. She wished everyone happy holidays.

Council President Pro Tem Lindsay spoke regarding the Town Caucus and expressed appreciation for being able to continue to serve on the Town Council for another term. She thanked the Planning, Zoning & Building Department on the Comprehensive Plan Workshop. She commended staff on the excellent Ribbon Cutting Ceremony for the new

Town Marina. She requested that senior staff review the tractor trailer policy due to traffic and parking problems.

Council Member Araskog spoke regarding the passing of Jerry Goldsmith and spoke regarding his contributions to the Town. She spoke regarding electric scooters and expressed support of increasing communications, including the newspapers, to make sure residents and visitors understand the regulations regarding electric scooters. She expressed support in reviewing the tractor trailer regulations. She also spoke regarding increasing code enforcement on landscapers on the weekends. She commended staff and Council President Pro Tem Lindsay on the beautiful new Town Marina and park. She thanked all employees and Council Members and wished everyone happy holidays and a Happy New Year.

Council Member Crampton expressed appreciation for running unopposed in the Town election and for being able to continue to serve on the Town Council for another term. He thanked his fellow Council Members and Town staff for their work and commended Council President Zeidman for her work as Council President, especially during the COVID-19 conditions.

Mayor Moore spoke regarding the importance of residents reaching out to Town Council Members on any issues in order for them to be handled.

VII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Donald Singer, 2295 S. Ocean Blvd., Co-Chair of the Citizens Association, congratulated Council President Zeidman, Council President Pro Tem Lindsay and Council Member Crampton on their re-election. He spoke regarding new State regulations pertaining to bicycle safety, specifically in regards to packs of cyclists, and offered to work with the Police Department to educate the public on these regulations. He spoke regarding upcoming events in the new year.

Town Manager Kurt Blouin addressed the issue with educating the public and cyclists on the new regulations and spoke regarding Florida Department of Transportation installing signage. Police Chief Nick Caristo explained that the new law states that if there is no bike lane, then bicyclists must ride single file.

Diane Buhler, Friends of Palm Beach (via Zoom), provided an update on beach clean up efforts in the Town. She spoke regarding obtaining sponsors for two beach clean up bucket stands and would appreciate the Town Council's approval for installing those bucket stands. She spoke in support of the Shore Protection Board and expressed support for that board not being disbanded.

The Town Council provided consensus to approve the installation of the two bucket stands.

VIII. APPROVAL OF CONSENT AGENDA

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the Consent Agenda. On roll call, the Motion passed unanimously.

A. MINUTES

1. Town Council Meeting Minutes
Pat Gayle-Gordon, Acting Town Clerk

October 12, 2021, Town Council Meeting
November 9, 2021, Town Council Meeting
November 10, 2021, Town Council Development Review Meeting
2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of November 19, 2021.
Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 150-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Ten Year Renewal of the Sovereignty Submerged Lands Lease Between the Town of Palm Beach and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, for the Continued Operation of the Town Marina; Authorizing the Mayor to Sign the Lease on Behalf of the Town of Palm Beach.
Carolyn Stone, Assistant Town Manager
2. RESOLUTION NO. 151-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Kimley-Horn and Associates, Inc. in the Amount of \$114,876 and a Project Budget of \$126,363 for Landfill Compliance and Sampling for Skees Road and Okeechobee Boulevard Landfill Facilities.
H. Paul Brazil, P.E., Director of Public Works
3. RESOLUTION NO. 153-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFQ No. 2021-27 Professional Engineering Services for Town of Palm Beach Facilities Assessment to Nelson Engineering Co. and Awarding a Contract for Services for the Project in the Amount of \$76,215.28 and Establishing A Project Budget of \$87,500.
Dean Mealy, Purchasing Manager

4. RESOLUTION NO. 154-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of a Purchase Order to Ten-8 Fire Equipment LLC, for a Demers MXP170 Ambulance in the Amount of \$270,077 and Establishing a Project Budget of \$297,084 Utilizing the Florida Sheriffs Association Contract #FSA20-VEL14-01.
Dean Mealy, Purchasing Manager
5. RESOLUTION NO. 155-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Rechten International Trucks Inc. for the Purchase of Two Replacement Dump Trucks in the Amount of \$197,954 and Approve a Budget Contingency of \$1,954 for the Equipment Replacement Fund for this Award.
Dean Mealy, Purchasing Manager
6. RESOLUTION NO. 161-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to Hedrick Brothers Construction Company Inc, for Modular Building Systems to House North Fire Staff during Rehabilitation of the Station as part of Pre-Construction Services.
Dean Mealy, Purchasing Manager

C. OTHER

1. RESOLUTION NO. 157-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for the De-Designation and Designation of Tree Number Twenty-Six (26) a Caracas Fig as Historic and Specimen Tree at 174 Via Del Lago, and Providing an Effective Date.
H. Paul Brazil, P.E. Director of Public Works
2. Consideration of Waivers to Town Code for Construction Dates and Noise for Lake Worth Lagoon Channel Dredging
H. Paul Brazil, P.E., Director of Public Works

IX. BOARD/COMMISSION ANNUAL REPORT

A. Shore Protection Board Annual Report
Kane Baker, Chair

Chair Baker expressed appreciation for being able to serve on the board for 11 years and commended Town staff, especially Paul Brazil and Rob Weber, for their help and support. He spoke regarding accomplishments, such as beach renourishment, cost sharing, Beach Management Agreement, and the sand transfer plant. He spoke regarding the importance of the water monitoring and beach monitoring and spoke

in support of bolstering that process. He spoke regarding items that need to be addressed, such as groin rehabilitation and improving public access. He expressed appreciation for the Mid-town Beach improvements.

Motion was made by Council Member Araskog and seconded by Council Member Cooney accept the Shore Protection Board Annual Report. On roll call, the Motion passed unanimously.

Mayor Moore recognized Kane Baker, James C. Gavigan and Reuben Johnson for their service on the Shore Protection Board.

X. COMMITTEE REPORTS

- A. Report of the Ordinances, Rules and Standards Committee Meeting Held on November 8, 2021
Julie Araskog, Chair

Council Member Araskog spoke regarding the provision for limiting the height of vegetation adjacent to neighboring structures and stated that staff is reviewing whether the nuisance provision can be utilized when there are issues with pests, such as iguanas and rats.

Ms. Araskog spoke regarding the Committee's discussion on the truck study and the decision to have staff look at a logistics plan in order to limit streets for trucks to traverse.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to accept the report of the Ordinances, Rules and Standards Committee Meeting held on November 8, 2021. On roll call, the Motion passed unanimously.

XI. PUBLIC HEARINGS

- A. RESOLUTION NO. 158-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Abandoning an Existing Public Utility Easement within the Property Commonly Known as 369 S. Lake Drive, in the Town of Palm Beach, Florida.
H. Paul Brazil, P.E., Director of Public Works

Patricia Strayer, Town Engineer, provided background information on the item.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to approve Resolution No. 158-2021. On roll call, the Motion passed unanimously.

XII. REGULAR AGENDA

B. Matters Pulled From Consent Agenda: If needed

C. Old Business

1. Town-wide Undergrounding Project:
H. Paul Brazil, P.E., Director of Public Works

- a. Review of Project and Dashboard, Summary of Project Status

Patricia Strayer, Town Engineer, provided an update on Phase 2 South and stated that the conversions should be completed by the end of March. She announced that they are down to zero chicanes in Phase 5 and stated that Phase 6 easements are going very well.

- b. RESOLUTION NO. 156-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFQ No. 2022-01 CMAR Services, Town-Wide Overhead Undergrounding Program for all Remaining Phases and Awarding a Purchase Order for Preconstruction Services to Burkhardt Construction Inc. for Phase 6, North and South in an Amount of \$48,540.

Town Engineer Strayer provided background information on the item and answered Council Member's questions.

Motion was made by Council Member Crampton and seconded by Council President Zeidman to approve Resolution No. 156-2021. On roll call, the Motion passed unanimously.

- c. RESOLUTION NO. 159-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Chen Moore and Associates for Engineering Design Services for North County Road Drainage Improvements in the Amount of \$155,936.18 and Establishing a Project Budget of \$187,123.42.

Town Engineer Strayer provided background information on the item and answered Council Members' questions. In response to a question from Council Member Cooney, Public Works Director, Paul Brazil, provided information on the potential replacement of trees in the landmark vista and explained that the plan will be coming back to the Town Council.

Mayor Moore commended staff on their coordination and for finding ways to minimize disruption to the residents.

Motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to approve Resolution No. 159-2021. On roll call, the Motion passed unanimously.

d. RESOLUTION NO. 160-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Mock Roos Consulting Engineers for Engineering Design Services for Clarke Alley Drainage Improvements in the Amount of \$59,907 and Establishing a Project Budget of \$71,888.40.

Town Engineer Strayer provided background information on the item and answered Council Member's questions.

Motion was made by Council Member Cooney and seconded by Council President Zeidman to approve Resolution No. 160-2021. On roll call, the Motion passed unanimously.

The Town Council recessed at 10:54 AM and reconvened at 11:00 AM.

D. New Business

1. Approval of Nominees to Serve on the Strategic Planning Board TIME
TIME CERTAIN: 11:00 AM
Danielle H. Moore, Mayor

Mayor Moore introduced the members that she selected for the Board. The Town Council expressed appreciation to Mayor Moore on the excellent selection of the Strategic Planning Board members. Mayor Moore spoke regarding the importance of having a large group of community members and leaders who will be involved in this process. Council Member Crampton stated that the Town is at a critical point and spoke regarding the importance of the process and the important job that the Board is undertaking.

In response to questions by Council Member Araskog, Mayor Moore explained the process by which she selected the members of the Board. She also spoke regarding how the Board meetings will be conducted and the process that the Board will be undertaking. Council Member Araskog expressed support for distributing a survey to residents for their ideas and expressed concern that this process may divert resources from the Zoning Code review. Mayor Moore stated that the priority of the Town Council is the Zoning Code review and that the Strategic Planning Process will be separate and not take precedence.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the nominations of Alfred Aldridge, Elizabeth Dowdle, Kristen Kelly Fisher, Nicki McDonald, Peter McKelvy, Katherine Ostberg, Michael Pucillo and Michael Reiter to the Strategic Planning Board. On roll call, the Motion passed unanimously.

The following item was heard out of order of the agenda:

3. Review of Chapter 106, Article VII - Special Events on Public Property
Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager, Jay Boodheshwar, provided background information on the item and explained that staff is anticipating an increase of interest in individuals using Town properties for special events.

Council Member Araskog expressed support to keep Lakeside Park and Memorial Park as passive parks that are not used for special events. She spoke regarding whether limiting events to only Town residents would be constitutional and expressed support for limiting usage.

Council Member Cooney expressed appreciation to Town Manager Blouin and Deputy Town Manager Boodheshwar for bringing the item forward and stated that he looks forward to working through the issues.

Council Member Crampton spoke regarding looking at this issue on a park by park basis due to the different natures of each park.

Council President Pro Tem Lindsay expressed concern of allowing special events at all Town parks and spoke regarding being respectful of the Town's residents. She stated that special events should be held at the hotels and clubs rather than at the Town's parks.

In response to questions by Council President Zeidman, Town Attorney Randolph stated that staff will need to discuss constitutionality of restricting to Town residents and/or organizations and Town Manager Blouin spoke regarding limiting special events to only the two larger parks.

Council Member Crampton stated that there are many local events that are positive for the community and spoke regarding the special event permit application process. He spoke regarding limiting the use of the parks to residents or organizations.

Council President Zeidman spoke regarding allowing events that are beneficial to the community. She questioned whether Bradley Park is only a passive park and Deputy Town Manager Boodheshwar explained that there are no construction activities allowed at Bradley Park, but events like the Menorah Lighting are allowed.

The Town Council provided consensus that Lakeside Park should remain a passive park only and provided direction to staff to bring an item back to the January meeting to discuss special events at other Town parks.

2. Discussion Regarding Shore Protection Board
TIME CERTAIN: 11:30 AM
Margaret A. Zeidman, Town Council President

Council President Zeidman spoke regarding discussions pertaining to the roles and future of the Shore Protection Board. She spoke regarding the Board having four vacancies out of seven seats. She outlined the Board's responsibilities that are included in the ordinance that created the Board and recommended certain responsibilities that should no longer be included.

Public Works Director Brazil provided background information on the history and work of the Shore Protection Board and explained where the Town is currently with shore protection projects. He stated that the coastal protection program is currently in maintenance mode.

Melissa Cerialle, Shore Protection Board member, stated the coastal protection is a top priority for the Town. She spoke regarding the Board needing clear direction from the Town Council on the focus of the Board and spoke in support of the Board being the primary conduit of communication to the public and remaining the forum for the public to hear and respond to shore protection issues. She spoke in support of the Board providing input on the budget. She spoke regarding challenges facing the Town with regards to coastal protection and stated that with proper guidance from the Town Council, the Board could be helpful with creating a strategy and be a positive addition to the Town.

Warren Belmar, Shore Protection Board member, spoke in support of keeping the Shore Protection Board active, but stated that certain changes can be made to the ordinance to change its responsibilities that would reflect more of what the needs are and the desire of the Council.

Skip Aldridge, 2295 South Ocean Blvd., spoke in support of retaining the Shore Protection Board and stated that the Citizens Association endorses the continuation of the Board and believes that it can be a very powerful tool for communication and education to the public.

Ronald Massen, 3120 South Ocean Blvd., Secretary of the Citizens Association, spoke regarding the importance of the Shore Protection Board continuing in order to enhance visibility, receive citizen input, provide communication to the public and advise the Town Council.

Council Member Crampton spoke in support of retaining the Shore Protection Board and spoke regarding its role in building the Town's successful beach management plan.

Council Member Araskog expressed concern over the staff time and cost associated with holding Shore Protection Board meetings. She stated that if the Board is retained that there should be a reorganization and consideration of holding meetings only when necessary.

Council President Pro Tem Lindsay provided background information regarding the Shore Protection Board and when it was reconstituted. She spoke in support of updating the ordinance to reflect the professional nature of the way that the Coastal Protection Program is being managed. She stated that some of the Shore Protection Board's current goals should be managed by the Town Council and expressed support for the Shore Protection Board retaining a role in handling the issues.

Council President Zeidman spoke in support of retaining the Shore Protection Board and in support of revising the ordinance to remove budgeting, lobbying and intergovernmental coordination and include creating community consensus. She stated that the Board is looking for direction of the Town Council and the Council will provide that direction once further discussion can take place. She spoke regarding the five current goals of the Shore Protection Board.

Council Member Cooney spoke regarding the current number of vacancies and the disruption that occurs when the majority of the board are new members. He recommended the members' terms being staggered in the future.

The Town Council provided consensus to retain the Shore Protection Board, but will be removing budgeting, lobbying and intergovernmental coordination from the ordinance and keeping long term planning, public education, communication, and consensus building; and will be including other items recommended by staff. Public Works Director Brazil stated that the item will be returning to the Town Council in February.

XIII. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Chapter 66 of the Town Code, Regarding Artificial Turf

ORDINANCE NO. 23-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 66 Natural Resource Protection, Article I, in General, Section 66-2, Definitions, and Article IV, Vegetation, Division 5, Regulations, by Adding Sections 66-313, Artificial Turf Locations and 66-314, Artificial Turf Standards; Providing for Severability; Providing for the Repeal of

Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Wayne Bergman, Director of Planning, Zoning & Building

Town Attorney Randolph read the title of the ordinance.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to adopt Ordinance No. 23-2021 on second reading. On roll call, the Motion passed unanimously.

2. Proposed Ordinance to Amend Section 42-199 of the Town Code, Regarding Construction Hours

ORDINANCE NO. 26-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 42 of the Town Code of Ordinances at Article V. Noise, Section 42-199, Hours For Construction Work at Subsection (b) Limited, to Provide Additional Limitations on Dates and Hours of Construction; Providing for Quiet Work and Limitations to Indoor Activity; and at Subsection (c) Exceptions to Modify Subsection (4); Providing For Severability; Providing For Repeal of Ordinances in Conflict; Providing For Codification; Providing an Effective Date.

Jay Boodheshwar, Deputy Town Manager

Town Attorney Randolph read the title of the ordinance.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to adopt Ordinance No. 26-2021 on second reading. On roll call, the Motion passed unanimously.

B. First Reading

1. Proposed Ordinance to Amend Chapter 18 of the Town Code and the Public Works Right of Way Manual to Include Certain Construction Site Violations as “Strikes” Under the “Three Strike Program”

ORDINANCE NO. 28-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 18, Buildings and Building Regulations, by Creating Article VII. - Construction Site Management, and by Adding Sections 18-309 and 18-310; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Wayne Bergman, Director of Planning, Zoning and Building

Director of Planning, Zoning and Building Wayne Bergman provided background information on this item.

Council Member Crampton spoke in support of increased enforcement and stressed the importance of having adequate code enforcement officers.

Police Chief Nick Caristo provided an update on the current hiring of code enforcement officers. He spoke regarding the coordination between the Police and Planning, Zoning and Building Departments. Police Chief Caristo and Town Manager Blouin answered Councilmembers' questions.

Town Attorney Randolph read the title of the ordinance.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to approve Ordinance No. 28-2021 on first reading. On roll call, the Motion passed unanimously.

2. Proposed Ordinance to Amend Chapter 42 of the Town Code, Relative to Lawn Maintenance and Prohibited Acts

ORDINANCE NO. 29-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 42 of the Town Code of Ordinances at Article V. Noise at Section 42-197. Specific Acts Prohibited and at Section 42-230. Lawn Maintenance; Providing for Severability; Providing for Repeal of Ordinances in Conflict Herewith; Providing for Codification; Providing an Effective Date.

Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar provided background information on the item and outlined the changes that the ordinance will make to the Code. He stated that Police Chief Caristo has requested that the quiet period time begin at 10:00 p.m. rather than midnight.

Council President Pro Tem Lindsay mentioned an error in the ordinance. Discussion ensued regarding clarification language.

Council Member Araskog and Council Member Cooney expressed concern over changing the time from midnight to 10:00 p.m.

Town Attorney Randolph read the title of the ordinance.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Ordinance No. 29-2021 as amended in Sec. 12 (b), on first reading. On roll call, the Motion passed unanimously.

3. Proposed Ordinance to Amend Chapter 74, Article V of the Town Code to Grant Beach Access to Root Trail Residents

ORDINANCE NO. 30-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Ordinance 21-2021 at Article V. - Beach Access Closure at Section 74-281. - Limited Closure of Access from Wells Road South to Sunset Avenue, to Include a New Subsection 2 Recognizing the Right of Root Trail Property Owners to have Continuous Access to the Beach Access Area located at Root Trail; Providing for Severability; Providing for Repeal of Ordinances in Conflict Herewith; Providing for Codification; Providing an Effective Date.

John C. Randolph, Town Attorney

Town Attorney Randolph read the title of the ordinance.

Public Comment:

Aaron Williams, on behalf of residents on Root Trail, thanked the Town Council and Town Attorney Randolph for working with the residents on resolving this issue.

Council Member Araskog pointed out that the Town must adopt this ordinance in order to protect private property rights.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve Ordinance No. 30-2021 on first reading. On roll call, the Motion passed unanimously.

XIV. ANY OTHER MATTERS

None.

XV. ADJOURNMENT

The Town Council Meeting of December 14, 2021 was adjourned at 1:11 p.m. without benefit of a Motion.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

Date



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on December 15, 2021

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order on December 15, 2021 at 9:31 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore thanked President Zeidman for a wonderful holiday lunch.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman mentioned that the time certain item at 2:00 PM is for the item regarding 191 Bradley Place. She discussed the lunch break during the meeting and the mask mandate for Town Hall.

Council President Pro Tem Lindsay thanked President Zeidman for a wonderful holiday lunch. She wished the community a happy holiday season.

Council Member Araskog asked if ORS could look at the issue of noise at The Four Seasons Hotel. Council Member Araskog expressed concern over large trucks and car carriers on Brazilian Avenue and requested that the Council discuss the item.

Council President Zeidman expressed her appreciation to the Council and staff for all of their hard work throughout the year.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were no comments heard at this time.

VI. APPROVAL OF AGENDA

Director of Planning, Zoning and Building Bergman read the following requested modifications:

Deferral of Item IX. A.1 to the January 12, 2021 meeting

Withdrawal of Item IX. B.1

Deferral of Item IX. C.1.c to the January 12, 2021 meeting

Deferral of Item IX. C.1.e to the January 12, 2021 meeting

Addition of Variance to Item IX. C.1.f

Deferral of Item IX. C.1.g to the January 12, 2021 meeting

Deferral of Item IX. C.1.i to the January 12, 2021 meeting

Deferral of Item IX. C.2.b to the January 12, 2021 meeting

Withdrawal of Item IX. C.2.d

Deferral of Item IX. C.2.g to the January 12, 2021 meeting

Council Member Cooney asked for clarification on item Z-21-00318, 1265 S. Ocean Blvd.

Mayor Moore inquired if the request for deferral for ZON-21-025, 2800 S. Ocean Blvd. should be granted, due to the amount of opposition letters received. Discussion ensued on whether the deferral should be granted. Consensus of the Council was to allow the deferral of 2800 S. Ocean Blvd.

Motion made by Council Member Araskog and seconded by Council Member Cooney to approve the agenda as amended. Motion carried unanimously, 5-0.

VII. DISCUSSION

- A. Develop a Review of Zoning and Code Ordinances for Prospective Home Buyers, Architects, Realtors and Contractors

Julie Araskog, Town Council Member

Council Member Araskog spoke regarding staff providing educational materials to prospective homebuyers, homeowners, architects, realtors, and contractors, to explain recent rule changes for landscaping, home improvements, construction, etc.

Council Member Crampton recommended compiling a three-ring binder for key individuals to keep the information current.

Council Member Araskog stated that she would like pamphlets to be mailed to all Town residents, in addition to the professionals.

Council Member Pro Tem Lindsay expressed concern over doing a mass mailing to all Town residents due to the expense and the fact that the information would be posted on the Town website and sent to the professionals and community associations. She recommended conducting an email poll to determine the desire of the community prior to a mass mailing of all residents.

Council Member Crampton recommended sending the information to all of the realtors and professionals rather than sending out to all Town residents.

Council President Zeidman agreed that a mass mailing would be very expensive and that sending it to the professionals and posting it on the Town website would be beneficial.

Council Member Araskog spoke in support of waiting to hear Mr. Bergman's recommendations before making a decision.

There was no action taken.

VIII. RESOLUTIONS

- A. RESOLUTION NO. 145-2021 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 137 Kings Road Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Janet Murphy, Murphy Stillings, presented background information on the project and historical information on the property. She outlined how the property meets Criteria 1, 3 and 4 for Landmark Designation.

Council President Zeidman requested confirmation of proof of notification. Deputy Town Clerk Churney provided confirmation.

Deputy Town Clerk Churney administered the oath at this time and throughout the meeting as needed.

James Murphy, Assistant Director of the Planning Zoning and Building Department indicated that staff fully supported the designation.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment.

Amanda Skier, Preservation Foundation of Palm Beach, thanked the owners for supporting the designation.

Council Member Araskog thanked the Preservation Foundation for their education efforts.

Council President Pro Tem Lindsay thanked the Council for increasing the budget for preservation. She also spoke about the importance of preserving the history in Palm Beach. She thanked the owners for supporting the designation.

Council Member Cooney thanked the owners for supporting the designation. He also thanked the Landmarks Commissioners for their work in preservation as well as the Preservation Foundation.

Motion made by Council Member Araskog and seconded by Council Member Cooney that Resolution 145-2021 be adopted designating the property at 137 Kings Road as a landmark of the Town of Palm Beach on the basis that it meets criteria 1, 3 and 4 of Section 54-161 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance 2-84.

Council Member Cooney inquired how many portions of the home had been already designated and Ms. Murphy responded.

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Motion carried unanimously, 5-0.

- B. RESOLUTION NO. 146-2021 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 4 South Lake Trail Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Ex parte communications were declared by Council Members Araskog and Cooney and Mayor Moore.

Emily Stillings, Murphy Stillings, presented background information on the project and historical information on the property. She outlined how the property meets Criteria 1, 3 and 4 for Landmark Designation.

James Murphy, Assistant Director of the Planning Zoning and Building Department indicated that staff fully supported the designation.

Council President Zeidman requested confirmation of proof of notification. Deputy Town Clerk Churney provided confirmation.

Motion made by Council Member Pro Tem Lindsay and seconded by Council President Zeidman that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment.

Amanda Skier, Preservation Foundation of Palm Beach, thanked the owner for supporting the designation.

Mayor Moore inquired if the designation would include the gardens on the property. Mr. Murphy responded that the designation encompasses the entire property.

Council Member Cooney provided further clarification on the designation.

Council Member Araskog thanked the owner for supporting the designation.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Resolution 146-2021 be adopted designating the property 4 S. Lake Trail as a landmark of the Town of Palm Beach on the basis that it meets criteria 1, 3 and 4 of Section 54-161 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance 2-84. Motion carried unanimously, 5-0.

- C. RESOLUTION NO. 147-2021 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 425 Seabreeze Avenue Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Council President Zeidman requested confirmation of proof of notification. Deputy Town Clerk Churney provided confirmation.

Janet Murphy, Murphy Stillings, presented background information on the project and historical information on the property. She outlined how the property meets Criteria 1 and 3 for Landmark Designation.

James Murphy, Assistant Director of the Planning Zoning and Building Department indicated that staff fully supported the designation.

Motion made by Council Member Cooney and seconded by Council President Zeidman that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment.

Amanda Skier, Preservation Foundation of Palm Beach, thanked the owner for supporting the designation.

Council Member Cooney expressed appreciation for seeing a home designated with the later changes completed by Howard Major.

Council President Zeidman stated that she was pleasantly surprised to know that the owners recently purchased the home and offered it for designation.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Resolution 147-2021 be adopted designating the property 425 Seabreeze Avenue as a landmark of the Town of Palm Beach on the basis that it meets criteria 1 and 3 of Section 54-161 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance 2-84. Motion carried unanimously, 5-0.

- D. RESOLUTION NO. 148-2021 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 300 Clarke Avenue Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Ex parte communications were declared by Council Members Araskog, Cooney, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Emily Stillings, Murphy Stillings, presented background information on the project and historical information on the property. She outlined how the property meets Criteria 1, 3 and 4 for Landmark Designation.

James Murphy, Assistant Director of the Planning Zoning and Building Department indicated that staff fully supported the designation.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment.

Amanda Skier, Preservation Foundation of Palm Beach, thanked the owner for supporting the designation and expressed appreciation to Council Member Crampton in his assistance with speaking with the property owners.

Council Member Cooney thanked Council Member Crampton for his efforts in speaking with the owners about this designation.

Council President Zeidman requested confirmation of proof of notification. Deputy Town Clerk Churney provided confirmation.

Council Member Araskog thanked Council Member Crampton for his efforts in speaking with the owners about this designation. She also thanked the homeowners for supporting the designation.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Resolution 148-2021 be adopted designating the property 300 Clarke Avenue as a landmark of the Town of Palm Beach on the basis that it meets criteria 1, 3 and 4 of Section 54-161 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance 2-84. Motion carried unanimously, 5-0.

Council President Pro Tem Lindsay inquired about the tax abatement program in coordination with renovations of a landmarked property. Ms. Stillings responded and explained the program. Town Attorney Randolph provided further information in response to a question from Ms. Lindsay regarding withdrawal from the designation process. Council Member Cooney provided additional clarification.

- E. RESOLUTION NO. 149-2021 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 256 Orange Grove Road Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

The Town Council recessed at 11:01 a.m. and reconvened at 11:12 a.m.

In response to a question by Council President Zeidman, Town Attorney Randolph stated that if the Council feels that there has not been ample time to review information that has come in late, then the Council has the ability to defer the item. Discussion ensued regarding whether or not to hear the item due to the late-received letter from the owner.

Alan Tomlinson, Owner, indicated that he had sent the information to the Council on Monday and apologized that they did not receive it sooner.

Motion made by Mr. Crampton and seconded by Council President Zeidman to defer the item to the January 12, 2022 meeting. Motion carried unanimously, 5-0.

- F. RESOLUTION NO. 152-2021 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For The Property Hereinafter Described And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V Of The Code Of Ordinances Of The Town Of Palm Beach, Relating To Landmarks Preservation And Titled "Tax Exemptions."

Emily Stillings, Murphy Stillings, presented background information on the item.

Council President Zeidman called for public comment. There were no public comments heard at this time.

Council President Pro Tem Lindsay thanked the owners for the beautiful renovation of the property.

Council Member Cooney expressed appreciation to the owners for their renovation of the property.

Council Member Crampton stated this home is an excellent example of the program.

Council Member Araskog expressed her gratitude to the owners for saving the home.

Amanda Skier, Preservation Foundation of Palm Beach, thanked the Council and Town staff for helping to save this property.

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay that Resolution 152-2021 be adopted. Motion carried unanimously, 5-0.

The following item was heard out of order of the agenda:

C. Variances, Special Exceptions, and Site Plan Reviews

2. New Business

- b. **ZON-21-019 223 ROYAL POINCIANA WAY (COMBO)-SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Flagler Holdings, has filed an application requesting Town Council review and approval for a Special Exception Request to expand by approximately 840SF of additional retail space to an existing merchant retail space for a total of 3,532 SF. Please refer to the staff memo for more information on this project.

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay and Council President Zeidman.

Jamie Crowley, Attorney representing Flagler Holdings, presented the information on the addition of the retail space in the existing commercial space.

Council Member Araskog expressed concern that the retail space would serve local residents rather than regional customers.

Council Member Cooney stated that he has been impressed with the operation and has seen many residents at the establishments.

Motion made by Council Member Cooney, and seconded by Council Member Araskog, that Special Exception ZON-21-019 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met. Motion carried unanimously, 5-0.

Council President Zeidman called for staff comments. Mr. Bergman provided staff comments.

Council President Zeidman called for public comments. There were no comments heard at this time.

Motion made by Council Member Cooney, and seconded by Council Member Araskog, that Site Plan Review ZON-21-019 shall be granted based upon the finding that such grant will not adversely affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329 items 1 through 11. Motion carried unanimously, 5-0.

IX, DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeals of B-063-2020 160 Royal Palm Way
This item was deferred at approval of the agenda to the January 12, 2021 meeting.

B. Time Extensions and Waivers

1. Time Extension - The Colony Hotel
This item was withdrawn at approval of the agenda.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **Z-21-00343 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R- A Estate Residential The application of 130 ALGOMA LLC (LEE FENSTERSTOCK, MANAGER), applicant, relative to property located at **130 ALGOMA RD** , legal description on file, is described below. Section 134-229, Section 134-329, and Section 134-843(b): Special Exception with Site Plan Review to allow the construction of a new, two-story 6,448.55 square foot residence while preserving the existing one story nonconforming garage on a lot with an area of 15,708 square feet in lieu of the 20,000 square foot minimum required; a lot depth of 142.33 feet in lieu of the 150 foot minimum required; and a lot width of 111.89 feet in lieu of the 125 foot minimum required; all in the R-A Zoning District. The following variances are being requested: 1) Section 134-843(8): to allow the existing east side yard setback to remain at 8.75 feet in lieu of the 15 foot minimum required to keep the existing nonconforming garage. 2) Section 134-843(7): to allow the building height plane setback to be 46.1 feet in lieu of the 48.33 foot minimum setback required. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission approved the project with conditions relating to the architecture. Carried 5-2.]

Ex parte communications were declared by Council Members Araskog, Cooney, Council President Zeidman and Mayor Moore.

Maura Ziska, Attorney for the owners, indicated that no variances were needed with the revised design. She explained the zoning requests for the current proposal.

Michael Perry, MP Design & Architecture, presented the architectural plans proposed for the new residence.

Paul Castro, Zoning Manager, provided staff comments.

Council Member Araskog stated that she believes that the proposed home looked larger than the surrounding homes. She expressed concern that two architects on the Commission opposed the design. She requested that the professional consider reducing mass in his future homes.

Mr. Castro spoke regarding the challenges that will be facing the Council with the designs of homes in this district that are being brought forward since current homes are being designed differently than homes from the past, as many residents are now full-time residents rather than seasonal residents.

Council Member Cooney expressed appreciation for the efforts to scale down the mass in the redesign of the home.

Council Member Crampton stated that he understood that while the neighbors initially had issues with the design, they are supportive of the redesign.

Council President Zeidman spoke in support of work that the professionals did on scaling down the home.

Council President Zeidman called for public comment. There were no comments heard at this time.

Council President Pro Tem Lindsay expressed appreciation of the professional's efforts.

Mayor Moore spoke regarding the possibility of the smaller neighboring home that would be coming to Council for a redesign.

Motion made by Council Member Crampton, and seconded by Council Member Cooney, that Special Exception Z-21-00343 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met. Motion carried unanimously, 5-0.

Motion made by Council Member Crampton, and seconded by Council Member Cooney, that Site Plan Review Z-21-00343 shall be granted based upon the finding that such grant will not adversely and that the Council affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329 items 1 through 11. Motion carried unanimously, 5-0.

- b. **Z-21-00333 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of 04TST101NIGHTINGALE LLC, applicant, relative to property located at **101 NIGHTINGALE TRL**, legal description on file, is described below. Section 134 893(13): The applicant is proposing to construct a 70 square foot one story bathroom addition and two Dutch gables that will be added to the courtyard elevations of the pool cabana and kitchen which will increase the cubic content ratio ("CCR") to 5.24 In lieu of the 5.01 existing CCR and the 3.9 maximum CCR allowed in the R B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance(s) will not cause negative architectural impact to the subject property. Carried 5-2.] [The Architectural Review Commission approved the project with conditions relating to the architecture. Carried 4-3.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Maura Ziska, Attorney for the owners, explained the zoning requests for the proposal. She discussed the hardship for the variances requested.

Paul Castro, Zoning Manager, provided staff comments.

Zoning Manager Castro answered a question by Council President Pro Tem Lindsay on the necessity of a variance if the measurement was calculated for FAR rather than CCR.

Chuck Willette, Brooks and Falotico, presented the architectural plans proposed for the modifications to the existing residence.

Council Member Araskog inquired about the retaining wall in relation to the neighbor's property. Mr. Castro stated that the retaining wall would need to be raised so that the pool deck could be raised.

In response to a question by Council Member Cooney about the dissenting votes from the ARCOM members, Mr. Castro responded that he believed the issues were resolved, but that the opposition was more for some of the architectural elements, such as the gable designs on the east façade.

Council Member Araskog inquired regarding the amount of square footage for the overage of CCR. She also inquired about the opposition from the ARCOM members. Mr. Murphy discussed the opposition from the ARCOM members.

Motion made by Council Member Cooney, and seconded by Council Member Crampton, that Variance Z-21-00333, shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 of the Town Code have been met. Motion carried 4-1, with Council Member Araskog dissenting.

Council President Zeidman called for public comment. There were no comments heard at this time.

- c. **Z-21-00374 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of JORDAN AND KRISTIN BENNETT GRAY, APPLICANTS, relative to property located at **224 LA PUERTA WAY**, legal description on file, is described below. The applicant is requesting four variances in order to build a two story addition which includes a 315 square foot one story addition to the garage, a 184 square foot addition for a covered terrace on the first floor, and a 930 square foot second floor addition for two bedrooms, including a 130 square foot covered balcony and two bathrooms. The requested variances are a for an east side yard setback of 11 feet in lieu of the 12.5 foot minimum side yard setback required for the garage addition in the R B Zoning District; an east side yard setback of 11 feet in lieu of the 15 foot minimum side yard setback for a second story addition and covered balcony; an east side yard setback of 9.8 feet in lieu of the 10.5 foot minimum side yard setback required for a bay window on the first floor; and an east side yard setback of 9.8 feet in

lieu of the 13 foot minimum side yard setback required for a bay window on the second floor in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to the December 17, 2021 meeting. Carried 7-0.] Staff Recommends a Deferral to the January 12, 2022 Meeting.

This item was deferred at approval of the agenda to the January 12, 2021 meeting.

- d. **Z-21-00385 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**
Zoning District: R-B Low Density Residential The application of 239 MONTEREY ROAD LLC (Louis Capano, Jr., Manager), Applicant, relative to property located at **223 MONTEREY RD**, legal description on file, is described below. The lot is non-conforming in area: 9,000 square feet in lieu of the 10,000 square feet required in the R-B Zoning District; and in width: 90 feet in width in lieu of the 100 foot minimum required in the R-B Zoning District. Request to demolish the existing one story residence, accessory structure, pool, driveway and miscellaneous site walls, piers and fences and construct a new 3,902 square foot single family two-story home on a non-conforming lot (overall size and width) meeting all applicable Town codes. The request includes a driveway, pool/spa, hardscape and landscape, including an emergency generator and civil storm water and grading. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission approved the project as presented. Carried 5-2.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Maura Ziska, Attorney for the owners, explained the zoning requests for the proposal.

Molly Mitchell, Dailey Janssen Architects, presented the architectural plans proposed for the new residence.

Council President Pro Tem Lindsay mentioned a suggestion at an ARCOM meeting to reduce the space between the two floors in order to lessen the overall size of the house. Ms. Mitchell responded and stated the ceiling height was reduced by one foot. Ms. Lindsay commented that she believed the ARCOM members were under the impression that the space could still be reduced. She spoke regarding professionals needing to be aware of designs in the future in order to address new FEMA height requirements.

Council Araskog inquired if more space could be reduced between the two floors. Ms. Mitchell stated she was already concerned about fitting her ductwork and air handlers in the space.

Council Member Cooney confirmed that the relief requested was due

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In response to a question by Council Member Araskog, Ms. Mitchell spoke regarding how the house would be a complete redesign to reduce the massing of the second floor of the home.

Motion made by Council Member Cooney, and seconded by Council Member Crampton, that Special Exception Z-21-00385 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary to underground utilities in the area. Motion failed 2-3, with Mses. Araskog, Zeidman and Lindsay dissenting.

Town Attorney Randolph provided advice on what the choices Town Council has at this time.

Mayor Moore requested clarification on why Mses. Lindsay and Zeidman voted no on the item.

Council President Pro Tem Lindsay expressed concern over how the house will fit into the character of the street. She spoke regarding other streets' character being destroyed by new homes that have been built. She stated that she might have had a different opinion if there was less height and more of setback.

Council President Zeidman stated that she believes that the proposed home appears to be massive and too close to the street.

Town Attorney Randolph clarified that the site plan review criteria does not have to do with architecture, but has to do with size, bulk and siting on the property. Mr. Castro read the criteria in the Code for a site plan review.

Motion made by Council Member Araskog and seconded by Council Member Crampton to defer the Special Exception and Site Plan Review to the January 12, 2022 meeting. Motion carried unanimously, 5-0.

Mr. Broberg inquired if the rear easements would be vacated once the undergrounding takes place. Discussion ensued regarding the status of the utility easements following the undergrounding project.

- e. **ZON-21-006 (ARC-21-040) 164 SEASPRAY AVENUE (COMBO) SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW AND VARIANCES** The applicant, Hayati Banastey, has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review for the construction of new two story residence on 2 platted lots deficient in lot width and lot area, including the following variances (1) a variance to reduce the required side (east) yard setback to 10 ft in lieu of 15 feet required for 2 story structure; (2) a variance to reduce the required side (west) yard setback

to 10 ft in lieu of 12.5 feet required for the 1 story portion; (3) a variance to reduce the required side (west) yard setback to 10 feet in lieu of 15 feet required for the 2 story portion. [Architectural Review Commission deferred the project to the December 17, 2021 meeting. Carried 7-0.] Staff Recommends a Deferral to the January 12, 2022 Meeting.

This item was deferred at approval of the agenda to the January 12, 2021 meeting.

The Town Council recessed at 1:27 p.m. and reconvened at 2:13 p.m.

- f. **ZON-21-008 (ARC-21-041) 1520 SOUTH OCEAN BOULEVARD (COMBO) SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW AND VARIANCE** The applicant, Chris Shumway, has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review to allow the construction of a new 400SF beach cabana and water feature within the vacant oceanside parcel in the R-A/B-A zoning district and a variance to reduce the required setback from the bulkhead line for the construction of the cabana. Please refer to the staff memo for more information on this project. [Architectural Review Commission Recommendation: Implementation of the proposed variance(s) will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, and Mayor Moore.

Maura Ziska, Attorney for the owners, explained the zoning requests for the proposal.

Mark Marsh, Bridges, Marsh & Associates, presented the architectural plans proposed for the new beach cabana.

Council Member Crampton expressed concern about the site line of the ocean vista. Mr. Marsh described the design and how the site line would look from the street.

Council Member Araskog inquired if the hedges could be maintained at 3 feet rather than 4 feet. Mr. Marsh stated the only portion that would have four-foot hedges was in front of the structure. Mr. Castro stated the hedges had to be at least 30 inches high from the crown of the road. Discussion ensued on the hedge heights.

Paul Castro, Zoning Manager, provided staff comments.

Council Member Cooney inquired about the greenspace over the revetment.

Council President Zeidman called for public comment. There were no public comments at this time.

Motion made by Council Member Araskog, and seconded by Council President Zeidman, that Special Exception ZON-21-008 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary to underground utilities in the area; and the condition that 75' of hedge will be maintained at 30" and the 45' of hedge surrounding the building will be trimmed at the level of 4 feet. Motion carried unanimously, 5-0.

Motion made by Council Member Araskog, and seconded by Council President Zeidman, that Site Plan Review ZON-21-008 shall be granted based upon the finding that such grant will not adversely and that the Council affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329 items 1 through 11; with the condition that all construction parking must be on the subject property. Motion carried unanimously, 5-0.

Motion made by Council Member Araskog, and seconded by Council President Zeidman, that Variance ZON-21-008, shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 of the Town Code have been met. Motion carried unanimously, 5-0.

The following item was heard out of order of the agenda:

2. New Business

b. **ZON-21-022 (ARC-21-084) 191 BRADLEY PL (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW**

The applicant, NDL Property Palm Beach Property LLC (David Tornek mgr), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review requesting outdoor seating (48 seats) in conjunction with an existing restaurant licensed for 125 seats, to be able to move 48 of its approved 125 seats outside. Please refer to the staff memo for more information on this project. [The Architectural Review Commission deferred the project to their January 26, 2022 meeting. Carried 7-0.]

TIME CERTAIN 2:00 P.M.

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Maura Ziska, Attorney for The Meat Market, presented the request for outdoor seating.

Robert Berger, Operations Manager for The Meat Market, discussed recent steps that the restaurant has made in order to address some of the neighbors' concerns.

Paul Castro, Zoning Manager, provided staff comments.

In response to a question by Council President Zeidman, Mr. Berger spoke regarding his on-site presence. Ms. Zeidman spoke regarding the noise, parking and other code enforcement issues that have been taking place at the restaurant for quite some time and exacerbated by the outdoor COVID seating.

At the request of Council President Zeidman, Police Chief Nick Caristo outlined the noise and parking issues that have been occurring at the restaurant since before the pandemic. He stated that he believes that the noise has been amplified by the outdoor seating.

Mayor Moore spoke regarding an insufficiency with the valet parking. Mayor Moore inquired if the establishment was considered town serving. Mr. Castro responded that the business would need to prove that it was town serving with this application. The Mayor also indicated that she had safety concerns for the outdoor seating plan proposed.

Council Member Araskog agreed that the restaurant needed to hire more people to assist in parking cars. Ms. Araskog expressed concern that staff did not discontinue the outdoor seating with the amount of complaints received. She also expressed concern that the outdoor seating had been approved given its proximity to the residential areas. She stated that she did not believe the sidewalks were large enough and expressed concern over safety. She questioned whether it met the criteria for the outdoor seating program.

Council President Pro Tem Lindsay spoke regarding issues that the restaurant has had with the adjacent neighborhood in the entire time she had been on the Council and that the restaurant has not resolved these issues. She added that she did not feel that The Meat Market was a good candidate for the outdoor seating program.

Council Member Crampton spoke in opposition to granting the outdoor seating and stated that he believed the establishment was a public nuisance to the neighboring properties.

Mr. Berger stated that he would like to withdraw the application at this time.

Town Attorney Randolph stated that if the application has been withdrawn, public comment should not be heard.

Council President Zeidman thought there was another issue dealing with the COVID outdoor seating program. Discussion ensued regarding the COVID outdoor seating program and the ability for staff to terminate a restaurant's outdoor seating if there are complaints. Mr. Bergman stated he would discuss the outdoor seating for this property with the Town Manager's office and the Police Department.

Council Member Araskog reiterated that, since the applicant withdrew his application, then the Council was not able to hear public comment on the item.

Since the applicant withdrew the application, there was no action taken.

- a. **ZON-21-011 (ARC-21-050) 1090 SOUTH OCEAN BOULEVARD (COMBO) SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW** The applicant, 1090SOCEAN LLC (Brad McPherson), has filed an application requesting Town Council review and approval of a Special Exception Request with Site Plan Review to allow the construction of a new two-story residence on non-conforming portions of platted lots that is 135' in depth where 150' is required and 18,558 SF of lot areas where 20,000 SF is required in the R-A zoning district. [Architectural Review Commission deferred the project to the December 17, 2021 meeting. Carried 7-0.] Staff Recommends a Deferral to the January 12, 2022 Meeting.

This item was deferred at approval of the agenda to the January 12, 2021 meeting.

- b. **ZON-21-012 (AKA Z-20-00299) (ARC-21-051) 1015 SOUTH OCEAN BOULEVARD (COMBO) SPECIAL EXCEPT ION REQUEST WITH SITE PLAN REVIEW AND VARIANCES** The applicant, 1015 South Ocean LLC (Maura Ziska, manager), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and variances (1) to reduce the required front setback and (2) to reduce the building height plane setback for both the one- and two-story portions, in order to build a new two-story residence on a lot nonconforming in depth. Please refer to the staff memo for more information on this project. [Architectural Review Commission Recommendation: Implementation of the proposed variance(s) will not cause negative architectural impact to the subject property. Carried 5-2.] [The Architectural Review Commission approved the project as presented. Carried 4-3.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Maura Ziska, Attorney for the owners, explained the zoning requests for the proposal.

Harold Smith, Smith and Moore Architects, presented the architectural plans proposed for the new residence and answered Council Members' questions.

Paul Castro, Zoning Manager, provided staff comments. He spoke regarding issues that were identified earlier in the day pertaining to the basement. Discussion ensued regarding this new issue that had previously been overlooked and the process going forward for identifying such issues.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to defer the project to the January 12, 2022 meeting to allow staff to resolve newly identified issues. Motion carried unanimously, 5-0.

- i. **Z-20-00318, 1265 S OCEAN BLVD—REPLAT** Zoning District: R-AA Large Estate Residential The application of BLOSSOM WAY HOLDINGS LLC (GERALD A. BEESON, MANAGER), applicant, relative to property located at **1265 S OCEAN BLVD**, legal description on file, is described below. An application to replat lots 1 through 6 and lot 10 of the Blossom Estate Subdivision, 60 Blossom Way, and 1290 S Ocean Blvd into 2 (two) buildable lots. The proposed replat will abandon in total the Blossom Way right-of-way; abandon the current beach access and dedicate a new 8-ft wide beach access along the north side of the proposed replat; terminate the Limited Access Easement along the east side of S Ocean Blvd which provides access to all of the Blossom Estate platted properties via Blossom Way; and incorporate 60 Blossom Way and 1290 S Ocean Blvd properties into the new Lots 1 and 2 of Blossom Estate subdivision. [Applicant's Representative: Maura Ziska Esq] The Applicant requested and staff recommends to remove the project from the agenda. At the June 09, 2021 Town Council Development Review meeting, the Applicant requested to remove the project from the agenda until further notice.

This item was deferred at approval of the agenda to the January 12, 2021 meeting.

2. New Business

- a. **Z-21-00390 (ARC-21-020) 300 N LAKE WAY (COMBO)-VARIANCES** The applicant, David and Constance Littman, has filed an application requesting Town Council review and approval for a variance to exceed the maximum allowed Cubic Content Ratio (CCR),

in order to construct an approximate 1600 SF addition to an existing accessory structure. Please refer to the staff memo for more information on this project. [Architectural Review Commission Recommendation: Implementation of the proposed variance(s) will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project with conditions relating to the truck logistics plan. Carried 6-1.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Maura Ziska, Attorney for the owners, explained the zoning requests for the proposal.

Sophia Bacon, Smith Architectural Group, presented the architectural plans proposed for the addition.

Council Member Cooney spoke in support of the design of the addition; however, he expressed concern over granting a variance for additional CCR due to the already large size of the house and the fact that lakeside lots are granted additional CCR.

Council Member Araskog expressed concern over the addition due to the large size of the home.

Paul Castro, Zoning Manager, provided staff comments and answered Council Members' questions.

Mayor Moore stated that while the home was large, the proposed addition does not appear that it would be seen and did not affect neighbors.

Council President Pro Tem Lindsay spoke regarding the size of the house and that the proposed addition would be de minimis to the house and lot.

Council Member Cooney spoke regarding the home not being comparable to others in the R-B Zoning District.

Council Member Crampton stated that he agreed that the request was minor and that he believed that it would not impinge on the neighbors.

Council President Zeidman spoke regarding the ocean and lake lots were treated differently due to their size. She stated that she did not believe that the addition was an issue.

Council President called for public comment. There were no comments heard at this time.

Motion made by Council Member Crampton, and seconded by Council President Zeidman, that Variance Z-21-00390, shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 of the Town Code have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary to underground utilities in the area. Motion carried 3-2, with Council Members Araskog and Cooney dissenting.

- c. **ZON-21-018 (HSB-21-004) 245 BARTON AVE (COMBO) - VARIANCES** The applicant, Elizabeth Sorrel, has filed an application requesting Town Council review and approval for variances (1) to reduce the front (south) setback for a new entry addition, (2) to exceed the maximum allowable cubic content ratio ‘CCR’, and (3) to exceed the maximum allowable lot coverage, in order to construct a new 35 SF entry addition to a historically significant building. [The Landmarks Preservation Commission deferred the project to the December 22, 2021 meeting. Carried 7-0.] Staff Recommends a Deferral to the January 12, 2022 Meeting.

This item was deferred at approval of the agenda to the January 12, 2021 meeting.

- d. **ZON-21-019 223 ROYAL POINCIANA WAY (COMBO)- SPECIAL EXCEPTION WITH SITE PLAN REVIEW**

This item was heard out of order of the agenda.

- e. **ZON-21-020 (ARC-21-082) 594 N COUNTY RD (COMBO)- VARIANCES** The applicant, George and Sandra Marucci, has filed an application requesting Town Council review and approval for variances (1) to reduce the side (north) setback for a new one- story addition, (2) and (3) to reduce the side (south) setback for two new one-story additions, in order to construct three (3) new one-story additions to an existing one-story residence. [Architectural Review Commission deferred the project to the December 17, 2021 meeting. Carried 7-0.] Request for Withdrawal per Letter from Attorney David E. Klein

This item was withdrawn at approval of the agenda.

- f. **ZON-21-021 (COA-21-012) 1100 S OCEAN BLVD (COMBO)- SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Mar-a-Lago Club Inc, has filed an application requesting Town Council review and approval for Special Exception request with Site Plan Review for modifications including new landscaping and a restroom addition to an existing private club. Please refer to the staff

memo for more information on this project. [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Harvey Oyer, Attorney on behalf of Mar-a-Lago Club Inc., presented the request for new restrooms and landscaping for the existing club.

Rick Gonzalez, REG Architects, presented the architectural plans proposed for the new restrooms and answered the Mayor and Council Members' questions.

Paul Castro, Zoning Manager, provided staff comments.

Council President Zeidman called for public comments. There were no comments heard at this time.

Motion made by Council Member Cooney, and seconded by Council President Pro Tem Lindsay, that Special Exception ZON-21-021 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met. Motion carried unanimously, 5-0.

Motion made by Council Member Cooney, and seconded by Council Member Araskog, that Site Plan Review ZON-21-021 shall be granted based upon the finding that such grant will not adversely affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329 items 1 through 11. Motion carried unanimously, 5-0.

g. **ZON-21-022 (ARC-21-084) 191 BRADLEY PL (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW**

This item was heard out of order of the agenda.

h. **ZON-21-025 2800 S OCEAN BLVD-SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Four Seasons and Boucher Brothers, has filed an application requesting Town Council review and approval for a Special Exception Request to operate a beachfront concessionaire (Boucher Brothers) eastward of an existing hotel (Four Seasons) in the Beach Area District for beach chair, umbrella and bed rentals and to allow food and beverage service. Please refer to the staff memo for more information on this project.

This item was deferred at approval of the agenda to the January 12,

2021 meeting.

The Town Council recessed at 4:24 p.m. and reconvened at 4:34 p.m.

- i. **ZON-21-026 (ARC-21-078) 175 WORTH AVE (COMBO)—VARIANCES AND SITE PLAN REVIEW** The applicant, PB Worth Partners LLC, has filed an application requesting Town Council review and approval for a Site Plan Review including a variance to further reduce the required front (south) setback along Worth Avenue for the proposed ground floor new entry addition, in order to renovate and modify the existing ground floor retail tenant in an existing two-story building. Please refer to the staff memo for more information on this project. [Architectural Review Commission Recommendation: Implementation of the proposed variance(s) will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

M. Timothy Hanlon, Attorney for PB Worth Partners LLC, presented the zoning requests for the proposed modifications to the existing commercial building. He answered Council Members' questions.

Mayor Moore spoke in support of the improvements.

Paul Castro, Zoning Manager, provided staff comments.

Council President Zeidman called for public comments. There were no comments heard at this time.

Motion made by Council Member Cooney, and seconded by Council President Pro Tem Lindsay, that Variance Z-21-026, shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 of the Town Code have been met. Motion carried unanimously, 5-0.

Motion made by Council Member Cooney, and seconded by Council President Zeidman, that Site Plan Review ZON-21-026 shall be granted based upon the finding that such grant will not adversely and that the Council affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329 items 1 through 11. Motion carried unanimously, 5-0.

- i. **ZON-21-027 (COA-21-009) 250 ALGOMA RD (COMBO)-VARIANCES** The applicant, Cortright & Janice Wetherill, has filed

an application requesting Town Council review and approval for a variance from Chapter 50 for the required floor elevation for the new ground floor addition on a landmarked building to construct a 230SF ground floor addition with a finished floor of 6.55' NAVD in lieu of the required 7' NAVD. Please refer to the staff memo for more information on this project. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented with a condition relating to the architecture. Carried 7- 0.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Travis Radak, Radakovich Architecture, presented the architectural plans for the addition to the existing residence. He explained the flood plain variance that the owner is requesting for the property.

Council Member Crampton spoke regarding the FEMA requirements changing in the near future.

Director of Planning, Zoning & Building Bergman stated that there were a number of conditions that the applicant would need to meet for the Flood Plain variance request. Mr. Radak stated he agreed to meet those conditions.

Paul Castro, Zoning Manager, provided staff comments.

Motion made by Council President Pro Tem Lindsay, and seconded by Council Member Cooney, that Variance ZON-21-027, shall be granted and find in support thereof that all criteria applicable to this application as set forth in Sections 50-116 and 50-117 of the Town Code have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary to underground utilities in the area. Motion carried unanimously, 5-0.

Council President Zeidman called for public comments. There were no comments heard at this time.

- j. **ZON-21-028 (COA-21-008) 271 EL VEDADO RD (COMBO)-VARIANCES** The applicant, 271 EL VEDADO, LLC (Jay Krehbiel), has filed an application requesting Town Council review and approval of two variances (1) Chapter 50 for the required floor elevation for the new ground floor addition on a landmarked building to construct an approximately 640 SF addition with a finished floor of 4.19' NAVD in lieu of the required 7' NAVD and (2) a variance to locate pool

equipment at 32' from waters edge in lieu of the required 25'. Please refer to the staff memo for more information on this project. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented with a condition relating to the landscape. Carried 7-0.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Jackie Albarran, presented the architectural plans proposed for the new addition and new pool and answered Council Member's questions.

Maura Ziska, Attorney for the owners, explained the zoning requests for the proposal.

Paul Castro, Zoning Manager, provided staff comments.

Council President Zeidman called for public comments. There were no comments heard at this time.

Motion made by Council Member Cooney, and seconded by Council President Zeidman, that Variance ZON-21-028, shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 and Sections 50-116 and 50-117 and of the Town Code have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary to underground utilities in the area. Motion carried unanimously, 5-0.

Council Member Cooney spoke regarding the requirement for pool equipment in proximity to the pool.

- k. **ZON-21-029 (HSB-21-003) 215 SEASPRAY AVE (COMBO) - VARIANCES** The applicant, 215 Seaspray Ave LLC, has filed an application requesting Town Council review and approval for a variance from Chapter 50 for the required floor elevation for the new ground floor addition on a historically significant building to construct a ground floor addition with a finished floor of 5.13' NAVD in lieu of the required 7' NAVD. The structure is a historically significant building. Please refer to the staff memo for more information on this project. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

Ex parte communications were declared by Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore.

Taylor Smith, Smith Kellogg Architecture, Inc., presented the architectural plans for the addition proposed. He discussed the flood plain variance requested.

Paul Castro, Zoning Manager, provided staff comments.

Council President Zeidman called for public comments. There were no comments heard at this time.

Motion made by Council Member Araskog, and seconded by Council President Pro Tem Lindsay, that Variance ZON-21-029, shall be granted and find in support thereof that all criteria applicable to this application as set forth in Sections 50-116 and 50-117 items 1 through 4 and items 1 through 10 of the Town Code have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary to underground utilities in the area. Motion carried unanimously, 5-0.

X. ANY OTHER MATTERS

A. Town-Serving Regulations

Council Member Araskog requested that the item be deferred to the next Regular Town Council Meeting due to length of the Development Review meeting. The Council provided consensus to defer the item.

Council Member Araskog requested clarification of the item for discussion regarding car carriers on Brazilian. Discussion ensued regarding potential regulations for allowing car carriers in various areas on Palm Beach. The Council provided consensus to restrict car carriers on Brazilian Avenue at this point.

Council Member Araskog requested an item be placed on the agenda to not allow continual music for 15 hours at the Four Seasons Hotel and other hotels.

XI. ADJOURNMENT

The meeting was adjourned at 5:18 p.m. without benefit of a motion.

APPROVED:

Margaret Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Minutes

Agenda Title

Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of December 17, 2021.

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- ▣ **Memorandum Dated January 5, 2022 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Minutes of the Architectural Review Commission Meeting of December 17, 2021**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 12, 2022

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Approval of the Architectural Commission Meeting Minutes of December 17, 2021

Date: January 5, 2022

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the major items that were approved by ARCOM at the regularly scheduled meeting of December 17, 2021.

BOARD OR COMMISSION RECOMMENDATION

The Architectural Commission recommends that the Town Council approve the major items that were considered at the regularly scheduled meeting of December 17, 2021.

GENERAL INFORMATION

These minutes are submitted to the Town Council for approval pursuant to Chapter 18-177 of the Town of Palm Beach Code of Ordinances.

Attachment

kmc



TOWN OF PALM BEACH

PLANNING, ZONING AND BUILDING DEPARTMENT

MINUTES OF THE REGULAR ARCHITECTURAL REVIEW COMMISSION MEETING HELD ON FRIDAY, DECEMBER 17, 2021

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com.

I. CALL TO ORDER

Mr. Small called the meeting to order at 9:00 a.m.

II. ROLL CALL

Michael B. Small, Chairman	PRESENT
John David Corey, Vice Chairman	ABSENT (Excused)
Alexander C. Ives, Member	PRESENT
Maisie Grace, Member	PRESENT
Betsy Shiverick, Member	PRESENT
Jeffrey Smith, Member	PRESENT
Thomas Kirchhoff, Member	PRESENT
Katherine Catlin, Alternate Member	PRESENT
Dan Floersheimer, Alternate Member	PRESENT
Richard F. Sammons, Alternate Member	PRESENT

Staff Members present were:

James G. Murphy, Assistant Director of Planning, Zoning and Building
Sarah Pardue, Historic Preservation Planner
Jordan Hodges, Planner II
Kelly Churney, Secretary to the Architectural Review Commission
John Randolph, Town Attorney

III. PLEDGE OF ALLEGIANCE

Chairman Small led the Pledge of Allegiance.

IV. RULES OF ORDER AND PROCEDURE

Mr. Small acknowledged the Town Council's decision to return to in-person meeting. He discussed the required masks while in the meeting. Mr. Small continued with procedural information and comments regarding the upcoming meeting.

- V. **APPROVAL OF THE MINUTES FROM THE NOVEMBER 19, 2021 MEETING**
Motion made by Ms. Shiverick and seconded by Mr. Smith to approve the minutes from the November 19, 2021 meeting. Motion carried unanimously.

VI. **APPROVAL OF THE AGENDA**

Mr. Small announced the following changes to the agenda:

Move ARC-21-104, 456 S. Ocean Blvd. under Minor Projects – New Business
Move ARC-22-003, 3474 S. Ocean Blvd. under Minor Projects – New Business
Move ARC-21-036, 323 Arabian Ave. to Time Extensions/Demolitions
Deferral of B-063-2021, 280 Via Marila to the February 23, 2022 Meeting
Deferral of B-072-2021, 224 La Puerta Way to the March 23, 2022 Meeting
Deferral of ARC-21-040, 164 Seaspray Avenue to the January 26, 2022 Meeting
Deferral of ARC-21-050, 1090 S. Ocean Blvd. to the January 26, 2022 Meeting
Withdrawal of ARC-21-082, 594 N. County Road
Deferral of ARC-21-044, 1800 S. Ocean Blvd. to the January 26, 2022 Meeting
Move ARC-21-092, 130 Banyan Road under Minor Projects – New Business
Deferral of ARC-21-046, 237 Brazilian Ave. to the January 26, 2022 Meeting

Motion made by Ms. Shiverick and seconded by Mr. Ives to approve the agenda as amended. Motion carried unanimously, 7-0.

VII. **PROJECT REVIEW**

A. **CONSENT AGENDA OF MINOR PROJECTS**

1. ARC-21-088 281 LIST RD (minor project) The applicant, Brooke McKernan, has filed an application requesting Architectural Commission review and approval for a new driveway configuration and material changes.

Please refer to staff memo for additional information on this project.

2. ARC-21-091 137 DUNBAR RD (minor project) The applicant, Kenneth Endelson, has filed an application requesting Architectural Commission review and approval for exterior modifications including site wall, pedestrian gate and landscape.

Please refer to staff memo for additional information on this project.

3. ARC-21-097 240 VIA LAS BRISAS (minor project) The applicant, Environmental Design Group (Dustin Mizell), has filed an application requesting Architectural Commission review and approval for minor modifications to the interior and perimeter landscaping and changes to the hardscape on a site containing an existing two-story residence.

Please refer to staff memo for additional information on this project.

4. ARC-21-098 1930 S OCEAN BLVD (minor project) The applicant, Coral House Land Trust (Russel Hernandez), has filed an application requesting Architectural Commission review and approval for modifications to a site containing an existing two-story residence including alterations to the motor court, installation of new entry columns and vehicular gate, construction of a new pergola and other site improvements.

Please refer to staff memo for additional information on this project.

5. ARC-21-104 456 S OCEAN BLVD (minor project) The applicant, Robert Frisbee, has filed an application requesting Architectural Commission review and approval for exterior design changes to an existing rooftop parapet wall.

Please note: This item was pulled from consent and was not approved with the consent agenda. This was moved to Minor Projects – New Business.

6. ARC-22-003 3474 S OCEAN BLVD (minor project) The applicant, Aastro Roofing, has filed an application requesting Architectural Commission review and approval for the installation of an in kind S-tile roof replacement to an existing multi-building townhouse development.

Please note: This item was pulled from consent and was not approved with the consent agenda. This was moved to Minor Projects – New Business.

7. ARC-21-036 323 ARABIAN AVE. The applicant, Sunshine Properties Palm Beach LLC (M. Timothy Hanlon), has filed an application requesting Architectural Commission approval for the demolition of an existing two-story residence.

Please note: This item was pulled from consent and was not approved with the consent agenda. This was moved to Minor Projects – New Business.

Motion made by Mr. Ives and seconded by Ms. Catlin to approve the consent agenda as amended. Motion carried unanimously, 7-0. Please note: This approval did not include the following projects: ARC-21-104, 456 S. Ocean Blvd., ARC-22-003, 3474 S. Ocean Blvd. and ARC-21-036, 323 Arabian Avenue.

B. TIME EXTENSIONS/DEMOLITIONS

1. ARC-21-036 323 ARABIAN AVE. The applicant, Sunshine Properties Palm Beach LLC (M. Timothy Hanlon), has filed an application requesting Architectural Commission approval for the demolition of an existing two-story residence.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Small asked if the owner did voluntarily agree to dedicate a utility easement supporting the undergrounding project subject to the satisfaction of the Town. Mr. Mizell agreed to the easement.

Dustin Mizell, Environment Design Group, presented the proposed demolition of the existing residence, landscape and hardscape.

Mr. Small inquired about the architect for the existing residence. He believed the home had charm and beauty. Mr. Mizell responded. Mr. Small inquired about the protection for the east side of the property. Mr. Mizell responded.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. There were no comments heard at this time.

Mr. Floersheimer also thought the home had charm and beauty. Mr. Floersheimer inquired about an existing retaining wall. Mr. Mizell responded and explained the landscaping proposed for that area.

Motion made by Ms. Shiverick and seconded by Mr. Smith that the proposed demolition of 323 Arabian Avenue has met the conditions listed in Sec. 18-206 of the Town's code of ordinances, and to approve the demolition as presented. Motion carried unanimously, 7-0. This application was approved with the condition that prior to the issuance of a building permit, the applicant shall either dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area.

C. MAJOR PROJECTS – OLD BUSINESS

1. B-063-2021, 280 VIA MARILA

Applicant: CJN P Holdings LLC (Daniel Pergola, Managing Member)

Professional: MP Design & Architecture, Inc.

Project Description: Demolition of an existing two-story structure. Proposal of a new two-story residence with rear facing two-car garage, new pool, hardscape and landscape.

A motion carried at the June meeting to approve the demolition of the existing home as requested. A second motion carried to defer the project to the July 28, 2021 meeting to address the comments of the commissioners. A motion carried to defer the project to the September 29, 2021 meeting with a clear understanding that a complete redesign of the home was highly requested. A motion carried at the September meeting to defer the project to the November 19, 2021 meeting for a restudy in accordance with the comments from the Commissioners, particularly

with the scale and mass of the proposed home. A motion carried at the November meeting to defer the project to the December 17, 2021 meeting.

Please note: This project was deferred to the February 23, 2022 meeting at the Approval of the Agenda, Item VI.

2. B-072-2021 224 LA PUERTA WAY (COMBO –VARIANCES)

Applicant: Mr. & Mrs. Gray

Professional: David J. Gengler/Gengler Architects, Inc.

Project Description: A major renovation of an existing single-story single family home which includes a two-story addition on the front of the home, a second floor addition over a portion of the existing first floor, and a two-story loggia addition on the rear of the home.

ZONING INFORMATION: The applicant is requesting four variances in order to build a two-story addition which includes a 315 square foot one-story addition to the garage, a 184 square foot addition for a covered terrace on the first floor, and a 930 square foot second floor addition for two bedrooms, including a 130 square foot covered balcony, and two bathrooms. The requested variances are as follows: Section 134-893(b)(7)a: Request for an east side yard setback of 11 feet in lieu of the 12.5 foot minimum side yard setback required for the garage addition in the R-B Zoning District. Section 134-893(b)(7)a: Request for an east side yard setback of 11 feet in lieu of the 15 foot minimum side yard setback for a second story addition and covered balcony in the R-8 Zoning District. Section 134-895(1): Request for an east side yard setback of 9.8 feet in lieu of the 10.5 foot minimum side yard setback required for a bay window on the first floor in the R-B Zoning District. Section 134-895(1): Request for an east side yard setback of 9.8 feet in lieu of the 13 foot minimum side yard setback required for a bay window on the second floor in the R-B Zoning District.

At the August 25, 2021 meeting a motion carried to defer the project to the September 29, 2021 meeting with a clear direction for a restudy of the entire project. A motion carried at the September meeting to defer the project to the October 27, 2021 meeting. A motion carried at the October meeting to defer the project to the November 19, 2021 meeting. A motion carried at the November meeting to defer the project to the December 17, 2021 meeting.

Please note: This project was deferred to the March 23, 2022 meeting at the Approval of the Agenda, Item VI.

3. ARC-21-040 (ZON-21-006) 164 SEASPRAY AVE. (COMBO –VARIANCES)

The applicant, Hayati Banastey, has filed an application requesting Architectural Commission review and approval for the construction of a new two-story home designed in the Classical Style and related site improvements, including variances for side yard setbacks as they pertain to the new residence on a nonconforming lot. The variance portion of the application shall be reviewed by Town Council.

The application will require special exception and site plan reviewed by Town Council.

Please note: This project was deferred to the January 26, 2022 meeting at the Approval of the Agenda, Item VI.

4. ARC-21-048 216 TRADEWIND DR. The applicant, 216 Tradewind Trust (Michael S. Kehoe, Trustee) has filed an application requesting Architectural Commission review and approval for the construction of a new two-story residence designed in a Bermuda Vernacular style with associated site improvements, hardscape, pool and spa.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Small asked if the owner did voluntarily agree to dedicate a utility easement supporting the undergrounding project subject to the satisfaction of the Town. Mr. Janssen agreed to the easement.

Roger Janssen, Dailey Janssen Architects, presented the architectural modifications proposed for the new residence.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. Ms. Pardue provided staff comments.

Ms. Grace appreciated the changes made in trying to reduce the appearance of mass; however, she still felt the massing was out of scale. She was not in favor of the garage design. She felt the design needed more individualistic character to fit into the neighborhood. She recommended adding additional open space to the program.

Ms. Shiverick agreed with Ms. Grace and thought the home did not fit into the streetscape. She felt the home was too dissimilar on the street. She felt the issues had to do with the massing and garage design.

Mr. Janssen disagreed with the comments on the design of the garage and explained how the garage was set further back than other front facing garages.

Anthony Beyer, 200 Tradewind Drive, expressed his objections to the proposed design.

Ms. Catlin appreciated the changes that were made to the plans. However, she felt that larger lots in the north end created issues, such as larger homes, which

were problematic for the neighbors. She did not believe the garage section was successful and compounded the issues in the design. She recommended reworking the garage section of the home.

Mr. Kirchhoff agreed with Ms. Shiverick. He thought the main mass of the home was too big for the street.

Mr. Smith thought the hip roof worked but had issues with the overall massing of the home. Mr. Smith added that he was not in favor of the garage doors facing the street, the area between the garage and the main mass of the home, the pitched roof with the dormers on the garage and the massiveness of the home on the streetscape. He indicated that he would not be able to support the design.

Mr. Ives did not have an issue with the main section of the home but did question the garage section of the home. He thought that some of the sections of the home, particularly the connection between the main house and garage were fighting themselves and needed to be resolved.

Mr. Sammons thought the overall elevation was frenetic. He thought the connection between the main home and the garage was too large. He believed the main portion of the home was too vertical. He made a suggestion for columns to be added to the rear of the home. He objected to the smoke stacks on the home. He thought the home was too tall and wide.

Mr. Small thought the home was excessively dissimilar and too massive for the street. He stated he would support a motion to deny the project.

Mr. Janssen requested a motion to defer the project rather than to deny the project.

Ms. Grace stated she would support a motion to deny the project. She stated the previous comments were clear that the home was too massive and needed substantial changes.

Motion made by Ms. Shiverick and seconded by Ms. Grace to deny the project at 216 Tradewind Drive as presented, based on the failure to comply with Section 18-205 of the Code, paragraph a (6c), (6e) and (6f).

Carl Sabatello, representing the owner, stated he understood the concerns and requested an opportunity to make changes to the design. He added that he respected the Commission's time but felt they deserved the opportunity.

Motion carried 5-2, with Mr. Ives and Ms. Catlin opposed.

5. ARC-21-050 (ZON-21-011) 1090 S OCEAN BLVD. (COMBO) The applicant, 1090SOCEAN LLC (Brad McPherson), has filed an application requesting Architectural Commission review and approval for the construction of a new two-story residence designed in the traditional Georgian style. The application will require special exception and site plan reviewed by Town Council. The application will require special exception and site plan reviewed by Town Council.

Please note: This project was deferred to the January 26, 2022 meeting at the Approval of the Agenda, Item VI.

6. ARC-21-074 225 WELLS RD. The applicant, M2B Properties LLC, has filed an application requesting Architectural Commission review and approval for the construction of a new two-story residence designed in a Mediterranean style of approximately 6,300 SF in size with associated site improvements, hardscape, pool and spa.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Small asked if the owner did voluntarily agree to dedicate a utility easement supporting the undergrounding project subject to the satisfaction of the Town. Mr. Palmer agreed to the easement.

Gregory Palmer, Harrison Design, presented the architectural modifications for the proposed new residence.

Steve West, Parker Yannette Design Group, presented the landscape and hardscape modifications proposed for the site.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. There were no comments heard at this time.

Ms. Shiverick thought the house had a nice simplicity and thought the changes were nice and responsive to the Commissioners' comments. She recommended using an espalier on the front and rear elevation but particularly on the east side of the home.

Ms. Catlin was in favor of the home but questioned the increase of the two story on the west section of the home. However, she did not oppose the change.

Mr. Floersheimer agreed with Ms. Catlin and thought the increase of the second story made the home look a more massive on the street side.

Mr. Sammons questioned the windows in the garage. He recommended increasing the entablature. He made suggestions for the arches in the courtyard. He questioned the louvers on the shutters.

Motion made by Ms. Catlin to defer the project for one month, to the January 26, 2022 meeting in accordance with the comments of the Commissioners. Motion failed for lack of a second.

Motion made by Ms. Shiverick and seconded by Ms. Grace to approve the project as presented. Motion carried unanimously, 7-0. This application was approved with the condition that prior to the issuance of a building permit, the applicant shall either dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area.

7. ARC-21-077 991 N LAKE WAY The applicant, Michael Rapp, has filed an application requesting Architectural Commission review and approval for exterior modifications to a previously approved two-story residence, including the demolition of portions of the existing structure and the construction of a new detached accessory structure, architectural changes and modifications to the site plan and landscaping.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Small asked if the owner did voluntarily agree to dedicate a utility easement supporting the undergrounding project subject to the satisfaction of the Town. Ms. Ford Taylor agreed to the easement.

Meghan Ford Taylor, Tralongo & Taylor, presented the architectural modifications proposed for the existing residence.

Keith Williams, Nievera Williams Design, presented the landscape and hardscape plans proposed for the existing site.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. There were no comments heard at this time.

Ms. Catlin was in favor of the changes, especially opening up the yard.

Mr. Kirchhoff agreed with Ms. Catlin. He was in favor of removing the cabana. He questioned the south wing's alignment with the loggia wall. Ms. Ford Taylor responded and explained the design.

Mr. Ives thought the project was nice and would be a good addition to the street.

Ms. Grace thought the back looked very cramped. She thought the renderings were not consistent with the existing conditions. She thought the columns were a bit small.

Mr. Floersheimer appreciated the changes. He wondered if the professional addressed the staff comments. Ms. Ford Taylor responded.

Mr. Sammons was not in favor of the front door and provided some design suggestions for this section. He questioned the end posts on the rear of the home. However, he supported the rest of the design.

Motion made by Ms. Shiverick and seconded by Ms. Grace to approve the project as presented with the exception of the front door and rear columns, which shall be restudied by the professional and will return to the January 26, 2022 meeting with these elements. Motion carried unanimously, 7-0. This application was approved with the condition that prior to the issuance of a building permit, the applicant shall either dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area.

8. ARC-21-082 (ZON-21-020) 594 N COUNTY RD. (COMBO – VARIANCES)
The applicant, George and Sandra Marucci, has filed an application requesting Architectural Commission review and approval for the construction of three additions totaling approximately 430SF to an existing one-story residence, including variances from both side setback requirements. The variance portion of the application shall be reviewed by Town Council.

Please note: This project was withdrawn at the Approval of the Agenda, Item VI.

D. MAJOR PROJECTS – NEW BUSINESS

1. ARC-21-044 (ZON-21-013) 1800 SOUTH OCEAN BOULEVARD (COMBO)
The applicant, Gerard Beekman, has filed an application requesting Architectural Commission review and approval for the construction of a new two-story residence designed in the Traditional Anglo Caribbean-Georgian style of architecture over 20,000 sf in size, multiple accessory buildings, generator and padel court on a vacant site. The application will require Special Exception request and Site Plan Review by Town Council.

Please note: This project was deferred to the January 26, 2022 meeting at the Approval of the Agenda, Item VI.

2. ARC-21-092 130 BANYAN RD. The applicant, 130 Banyan LLC (Maura Ziska, Manager), has filed an application requesting Architectural Commission review and approval for alterations to previously approved plans including changes to building fenestration and rooflines and including hardscape and landscape changes.

Please note: This project has been moved to Minor Projects – New Business under the approval of the agenda, Item VI.

3. ARC-21-093 (ZON-22-002) 150 WORTH AVE, STE 234 (COMBO) The applicant, Cojimar Palm Beach (Joseph Hernandez and Charles Masson) has filed an application requesting Architectural Commission review and approval for outdoor furniture associated with proposed exterior seating in association with a new second floor restaurant in The Esplanade (Cojimar). The outdoor seating will require a Special Exception Review w/Site Plan Review by the Town Council.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Jason Drobot, Brasseur and Drobot Architects, presented the modifications proposed for the new restaurant.

Mr. Small called for staff comment. Mr. Murphy provided staff comments

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Ives thought it was a nice project.

Ms. Grace thought the tables and chairs detracted from the shopping in this location. She did not believe the tables and chairs were attractive. She thought a different umbrella would be more appropriate. Mr. Drobot responded. Ms. Grace preferred a different planter.

Ms. Shiverick inquired about the manufacturer was for the tables and chairs. Mr. Drobot responded. Ms. Shiverick agreed with Ms. Grace and thought the umbrellas were a bit overwhelming and too big. She did not have issues with the tables, chairs and outdoor seating request.

Ms. Catlin thought the furniture was a bit sterile and thought the umbrellas were too large for the area. She thought it was an interruption to the area and did not add to the ambiance to the space.

Mr. Kirchhoff inquired about the method of serving the first floor space. He also thought the furniture was a bit sterile and recommended furniture in an oil rubbed bronze finish.

Mr. Floersheimer agreed with the other Commissioners. He questioned the furniture choice and the serving methods. He did not believe the request met the Code.

Mr. Small stated that the Commission was to review the architectural and aesthetical aspects of the project. Mr. Murphy provided confirmation. Mr. Small inquired why the seating could not be solely located on the second floor. Mr. Drobot responded. Mr. Small asked about the serving methods for the first floor tables. Mr. Drobot responded. Mr. Small inquired **if the tables**

Mr. Sammons did not believe the existing space had any ambiance. He thought anything to activate the space was a good change.

Mr. Floersheimer inquired if the planters would be moved at the end of the evening or if they would remain. Mr. Drobot responded.

Motion made by Ms. Catlin and seconded by Ms. Grace to defer the project to the January 26, 2022 meeting with direction that the professional restudy the plan to eliminate the first floor seating and potentially place all seating on the second floor, and to consider all other comments of the Commissioners. Motion carried 5-2, with Mr. Ives and Ms. Shiverick opposed.

Please note: The Commission took a short break at 10:42 a.m. The meeting resumed at 10:56 a.m.

4. ARC-21-096 (ZON-22-008) 3450 S OCEAN BLVD (COMBO) The applicant, the Patrician Condominium, has filed an application requesting Architectural Commission review and approval for the construction of a new restroom and covered shade structure on top of an existing elevated pool deck and landscape modifications. The project requires Site Plan Review to be reviewed by Town Council.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Small asked if the owner did voluntarily agree to dedicate a utility easement supporting the undergrounding project subject to the satisfaction of the Town. Mr. Mizell agreed to the easement.

Dustin Mizell, Environment Design Group, presented the architectural modifications as well as the landscape and hardscape modifications proposed for the pool deck.

Tricia Schuldenfrei, speaking on behalf of The Patrician as the President of the Association and a resident, requested that The Halcyon work with The Patrician to plant a border between the two properties.

Abe Fenster, 3450 S. Ocean Blvd., agreed with Ms. Schuldenfrei and hoped to work with The Halcyon to come up with a solution for the plant material to be planted between the two properties.

John Eubanks, attorney on behalf of The Halcyon, discussed the reasons his owners wanted the Australian pine border, particularly due to the lights that shine into the condominium from the neighboring condominium.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. Mr. Murphy provided staff comments.

Ms. Shiverick expressed concern for the eastern most shade structure and suggested a different location for this structure. She provided the reasons she believed this should be moved. She inquired about planters proposed for the deck. Mr. Mizell responded and explained the intension for the design. She inquired about the umbrellas proposed. Mr. Mizell responded and stated the umbrellas had not been chosen.

Mr. Murphy questioned whether the Commission should review movable furniture.

Ms. Grace agreed with Ms. Shiverick on the eastern shade structure. She would support to move the structure. Ms. Grace inquired about the addition of the trees. Mr. Mizell responded. Ms. Grace inquired about the decking material. Mr. Mizell stated that the decking had already been approved. She requested pausing on the request for the materials between the two condominiums until they both could work out a solution.

Ms. Catlin was in favor of the decking and understood Ms. Shiverick's suggestion to move the eastern shade structure. She thought the north border material proposed was appropriate. She suggested looking at the lighting to possibly changing it so that it does not project over to the adjacent property. Mr. Mizell responded.

Mr. Floersheimer was satisfied with the gazebos proposed for the pool deck. He did not believe The Halcyon was maintaining the Australian Pines very well on

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. There were no comments heard at this time.

Motion made by Mr. Kirchhoff and seconded by Mr. Floersheimer that the proposed demolition of 1025 N. Lake Way has met the conditions listed in Sec. 18-206 of the Town's code of ordinances, and to approve the demolition as presented. Motion carried unanimously, 7-0. This application was approved with the condition that prior to the issuance of a building permit, the applicant shall either dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area.

Leslie Pierce, Smith Architectural Group, presented the architectural plans proposed for the new residence.

Keith Williams, Nievera Williams Design, presented the landscape and hardscape plans for the proposed for the site.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. There were no comments heard at this time.

Ms. Shiverick thought the design was a beautiful oasis. She was in favor of the design. She questioned the green window and door trim. She recommended matching the green to the roof color, which was a bit more of emerald green.

Mr. Ives inquired about the design and size of the starburst windows. Ms. Pierce responded. He agreed with Ms. Shiverick and thought this home was wonderful and the garden was astounding.

Ms. Grace was in favor of the home. She liked the dark color for the window and door trim. She inquired about the steps that lead to N. Lake Way. Mr. Williams responded. She hoped that some views of the architecture would be seen from the street. Mr. Williams responded. She inquired about the wood material proposed. Ms. Pierce responded. Ms. Grace asked about the parking for the home. Mr. Williams responded and explained the intention.

Ms. Catlin thought the lot was prominent for the area. She was in favor of the home. She thought the home was beautiful and appropriately scaled.

Mr. Kirchhoff thought the design was executed well and the landscaping was beautiful.

Mr. Sammons applauded the use of the style. He thought some of the detailing needed to be improved. He provided some suggestions and recommended studying the detailing further.

Mr. Floersheimer agreed with the other Commissioners and was supportive of the home. He inquired about the pathway of arrival to the front entrance of the home. Mr. Williams responded.

Mr. Small thought the home was designed well and would enhance the beauty of the north end.

Motion made by Mr. Ives and seconded by Mr. Floersheimer to approve the project as presented. Motion carried unanimously, 7-0. This application was approved with the condition that prior to the issuance of a building permit, the applicant shall either dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area.

6. ARC-21-101 425 CHILEAN AVE. The applicant, Loraine Charman, has filed an application requesting Architectural Commission review and approval for the modification of a previously approved landscape plan to include the removal of two trees to be replaced with hedge material.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Small asked if the owner did voluntarily agree to dedicate a utility easement supporting the undergrounding project subject to the satisfaction of the Town. Mr. Lynch stated he believed the property owner had already granted the easement.

Frank Lynch, Attorney for the owner, explained the removal of two trees from the approved landscape plan. He indicated that the owner accepted responsibility for the removal of the two trees and explained the reasons they were removed. He indicated that the matter was a Code Enforcement issue.

Dustin Mizell, Environment Design Group, presented the landscape plan that indicated the removal of the two trees at the front of the property. He also presented further landscaping modifications.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. There were no comments heard at this time.

Mr. Kirchhoff thought a taller material was needed to break up the garage façade.

Ms. Grace thought more screening of the garage was needed.

Ms. Catlin wondered if there a better solution for a taller material rather than the proposed. Mr. Mizell responded.

Ms. Shiverick agreed with Ms. Catlin. She did not believe the proposed addressed the issue. She thought a circular driveway would be a better solution for this particular home. She also inquired about the statues mentioned in the letter of opposition. Mr. Lynch stated that the statues were staff approved. Ms. Shiverick thought there were better design solutions for the driveway.

Mr. Smith thought raising the hedge would exasperate the issue. Mr. Smith agreed with Ms. Catlin's suggestion of taller, pleached trees. He also suggested installing a crescent driveway.

Ms. Grace asked about the issue of the trees that were removed. Mr. Lynch responded.

Mr. Floersheimer thought there was sufficient room maneuver a car around so that the owner would not need to back out into the street. He thought the hedge should be taller and an archway should be created over the driveway.

Mr. Small thought there was a sparsity of landscaping and the mass of the home needed some screening.

Motion made by Ms. Catlin and seconded by Ms. Grace to defer the project to the January 26, 2022 meeting. Motion carried unanimously, 7-0.

E. MINOR PROJECTS – OLD BUSINESS

1. ARC-21-046 237 BRAZILIAN AVE. (minor project) The applicant, Brazilian PB Land Trust, has filed an application requesting Architectural Commission review and approval for the installation of two new side entry gates.

Please note: This project was deferred to the January 26, 2022 meeting at the Approval of the Agenda, Item VI.

2. ARC-21-057 125 EL BRAVO WAY (minor project) The applicant, Jim Sawky, has filed an application requesting Architectural Commission review and approval for exterior and interior modifications to a previously approved two-story residence, specifically alterations to all elevations with window, door and other detail adjustments.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Michael Perry, MP Design & Architecture, presented the architectural modifications proposed for the existing residence.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. There were no comments heard at this time.

Motion made by Ms. Catlin and seconded by Mr. Kirchhoff to approve the project as presented. Motion carried unanimously, 7-0.

3. ARC-21-065 446 N. LAKE WAY (minor project) The applicant, Robert and Suzanne Johnson, has filed an application requesting Architectural Commission review and approval for the installation of a new vehicular driveway gate.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Cory Meyer, Nievera Williams Design Group, presented the plans for the alternate vehicular driveway gate.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. There were no comments heard at this time.

Ms. Grace thought the gate proposed was responsive to the comments of the Commissioners.

Mr. Floersheimer thought this gate was much better and wished the main gate would be changed to match the proposed.

Motion made by Ms. Grace and seconded by Ms. Shiverick to approve the project as presented. Motion carried unanimously, 7-0.

F. MINOR PROJECTS – NEW BUSINESS

1. ARC-21-102 200 EVERGLADE AVE, UNIT A-2 (minor project) The applicant, Robert Satterfield, has filed an application requesting Architectural Commission review and approval for the installation of solar panels on the shared existing flat roof on a town house building.

Please refer to staff memo for additional information on this project.

At this time, the professional was not present to explain the project to the Commission. The Commission passed the project and moved to the next project.

2. ARC-21-103 225 SEABREEZE AVE (minor project) The applicant, Robert Berg, has filed an application requesting Architectural Commission review and approval for the installation of solar panels on the existing roof of a two-story single family residence.

Please refer to staff memo for additional information on this project.

At this time, the professional was not present to explain the project to the Commission.

Sabrina Ivey, daughter of the owner at 212 Clarke Avenue, stated her father would be the main person who would see the proposed solar panels. She stated her objections to the panels.

Motion made by Mr. Smith and seconded by Ms. Shiverick to defer both ARC-21-102, 200 Everglade Avenue and ARC-21-103, 225 Seabreeze Avenue to the January 26, 2022 meeting. Motion carried unanimously, 7-0.

There were comments from the Commissioners requesting photos of the home and existing roofs.

3. ARC-21-104 456 S OCEAN BLVD (minor project) The applicant, Robert Frisbee, has filed an application requesting Architectural Commission review and approval for exterior design changes to an existing rooftop parapet wall.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Roger Janssen, Dailey Janssen Architects, presented the architectural plans to change the panels of the existing parapet wall.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. Mr. Murphy provided staff comments.

Mr. Ives inquired if the panels would be consistent within the unit. Mr. Janssen responded.

Ms. Grace remembered that the Commission asked for a distinction between the units when it was first approved. She asked if the applicant would be open to removing the parapets, as she believed the Commission did not approve them. Mr. Janssen stated that the parapets were staff approved and built as approved.

Ms. Catlin thought the Commission had approved the item as she remembers discussing the need for the parapets. She did not believe the panels would be seen or noticed.

Mr. Floersheimer confirmed that the panels on unit three would not change. Mr. Janssen provided confirmation.

Motion made by Ms. Catlin and seconded by Mr. Ives to approve the project as presented. Motion carried 6-1, with Ms. Grace opposed.

4. ARC-22-003 3474 S OCEAN BLVD (minor project) The applicant, Aastro Roofing, has filed an application requesting Architectural Commission review and approval for the installation of an in kind S-tile roof replacement to an existing multi-building townhouse development.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Robin Turner, President of Ocean Cay Condominium, presented the replacement of the roof tile.

Mr. Small asked Ms. Turner if the owners would consider making a switch to barrel tile.

Ms. Turner discussed how the owners had ordered the tile and did not believe they would have an issue replacing a like for like roof material. She discussed the need for a quick approval.

Rick Wilson, Aastro Roofing, presented the material sample proposed for the roofing replacement.

Mr. Small called for public comments. There were no comments heard at this time.

Dr. Paul Vallone, 3474 S. Ocean Blvd., advocated for the roofing tile proposed.

Mr. Small called for staff comment. There were no additional comments heard at this time.

Mr. Ives appreciated the applicants' presentation but thought the Commission should uphold the criteria set forth in the Code with the understanding that an appeal could be made to the Town Council.

Ms. Catlin asked Mr. Sammons his thoughts on S-tile roofing material.

Mr. Sammons thought there were good and bad S-tile. He also thought it was the area of Town where the tile was proposed should be considered. He did not believe that the tile would detract from the neighborhood and added in this case, the material should be grandfathered.

Ms. Grace inquired if the tile was on site. Ms. Turner stated the tile had already been purchased.

Mr. Kirchhoff thought the tile was appropriate for the building and thought the Commission should approve the tile.

Mr. Smith thought since the tile was clay and was not located near the historic section of the Town, he would support the request.

Motion made by Ms. Shiverick and seconded by Mr. Kirchhoff to approve the project as presented. Motion carried 4-3, with Messrs. Ives, Small and Ms. Grace opposed.

5. ARC-21-092 130 BANYAN RD. The applicant, 130 Banyan LLC (Maura Ziska, Manager), has filed an application requesting Architectural Commission review and approval for alterations to previously approved plans including changes to building fenestration and rooflines and including hardscape and landscape changes.

Please refer to staff memo for additional information on this project.

Call for disclosure of ex parte communication: Disclosure by several members.

Peter Papadopoulos, Smith and Moore Architects, presented the architectural modifications proposed for the existing residence.

Mario Nievera, Nievera Williams Design, presented the landscape and hardscape modifications proposed for the site.

Mr. Small called for public comments. There were no comments heard at this time.

Mr. Small called for staff comment. Mr. Murphy provided staff comments.

Ms. Grace thought the changes improved the project.

Motion made by Ms. Catlin and seconded by Ms. Shiverick to approve the project as presented. Motion carried unanimously, 7-0.

VIII. UNSCHEDULED ITEMS (3 MINUTE LIMIT PLEASE)

1. Public

There were no comments heard at this time.

2. Staff

Ms. Churney stated that Jeffrey Smith declared a conflict for a project at 300 N. Lake Way at the November 19, 2021 meeting and had correctly completed the 8B form in accordance with State Law.

Ms. Churney stated that Thomas Kirchhoff declared a conflict for a project at 147 Dunbar Road at the November 19, 2021 meeting and had correctly completed the 8B form in accordance with State Law.

3. Commission

Ms. Grace inquired about guidance for solar panels from either staff and/or Town Council. Mr. Murphy responded and provided what he believed the Commission should consider in the proposal.

IX. NEXT MEETING DATE: Wednesday, January 26, 2022

X. ADJOURNMENT

Motion made by Mr. Smith and seconded by Ms. Grace to adjourn the meeting at 1:03 p.m. on Friday, December 17, 2021. Motion carried unanimously, 7-0.

The next meeting will be held on Wednesday, January 26, 2021 at 9:00 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 S. County Road.

Respectfully Submitted,

Michael B. Small, Chairman
ARCHITECTURAL COMMISSION

kmc

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 161-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to Hedrick Brothers Construction Company Inc. for Modular Building Systems to House North Fire Staff during Rehabilitation of the Station as part of Pre-construction Services in the Amount of \$534,449 for a total Purchase Order of \$1,393,208.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum dated December 22, 2021, from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 161-2021**
- ▣ **Trailer Comparison Cost**
- ▣ **Change Order Proposal from Hedrick Brothers**
- ▣ **Previously awarded Resolution 133-2021**

Information for Town Council Meeting on January 11, 2022

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Jane Le Clainche, CPA, Director of Finance

FROM: Dean Mealy, II CPPO Town Purchasing Manager

RE: Resolution Approving Change Order to Hedrick Brothers Construction Company Inc. for Modular Building Systems to House North Fire Staff during Rehabilitation of the Station as part of Pre-construction Services in the Amount of \$534,449 for a total Purchase Order of \$1,393,208; **Resolution No. 161-2021**

DATE: 22 December 2021

STAFF RECOMMENDATION

Staff recommends Town Council approve a Change Order to Hedrick Brothers Construction Company Inc. for Modular Building Systems to House North Fire Staff during Rehabilitation of the Station as part of Pre-construction Services in the Amount of \$534,449 for a total Purchase Order of \$1,393,208.

SUMMARY EXPLANATION/BACKGROUND

Town Council approved Resolution No. 133-2021 approving Hedrick Brothers Construction Company Inc. as the CMAR and awarded a Pre-construction Agreement. A significant first step for the rehabilitation is the relocation of staff. Hedrick Brothers has worked with Town Staff to identify modular units that would meet the requirements of the Fire Department.

METHOD OF PROCUREMENT

Town Engineering, Town Purchasing and Hedrick Brothers have worked with known suppliers of modular building systems. Town Engineering and Hedrick Brother Staff reviewed one of the three modular systems currently deployed for the City of West Palm Beach Fire Rescue.

The three known providers are American Modular, Fabriceon and WillScot. American Modular provided the best pricing for purchase of the units.

The Town will be Direct Purchasing the units thereby saving \$23,000. In review of possible resale after completion of the project at North Fire, it is estimated that the Town can resale the units for approximately thirty percent of the original purchase price. This amount is based on current Governmental Surplus Sales records.

FISCAL IMPACT/FUNDING SOURCE

The funding for this program is from the Capital Improvement Fund.

USER DEPARTMENT CONCURRENCE

The Public Works Department is in full concurrence with this recommendation.

DUE DILIGENCE

Due Diligence was conducted to determine vendor responsibility, including corporate status and that there are no performance and compliance issues.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

RESOLUTION NO. 161-2021

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A CHANGE ORDER TO HEDRICK BROTHERS
CONSTRUCTION COMPANY INC. FOR MODULAR BUILDING
SYSTEMS TO HOUSE NORTH FIRE STAFF DURING
REHABILITATION OF THE STATION AS PART OF PRE-
CONSTRUCTION SERVICES IN THE AMOUNT OF \$534,449
FOR A TOTAL PURCHASE ORDER OF \$1,393,208**

NOW, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH,
PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves Resolution No. 161-2021, approving a Change Order to Hedrick Brothers Construction Company Inc. for Modular Building Systems to House North Fire Staff during Rehabilitation of the Station as part of Pre-construction Services in the Amount of \$534,449 for a total Purchase Order of \$1,393,208.

Section 2. The Town Manager is hereby authorized to execute this purchase order on behalf of the Town of Palm Beach for these improvements. .

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 11th day of January, 2022.

Danielle H. Moore, Mayor

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

American Modular			
Description and Pricing	Qty	Unit Price	Extended Total
Section Modular - 28' x 70'	1	\$ 244,000.00	\$ 244,000.00
Delivery	1	\$ 7,900.00	\$ 7,900.00
Set up	1	\$ 7,800.00	\$ 7,800.00
180 MPH Rated, 30" standard vent hood with Guardian fire suppression, Armstrong Corlon sheet vinyl floor covering, Impact Windows and Doors per code, 3/4" T&G plywood subfloors, 5/8" Type X Fire Rated Gypsum throughout with Vinyl Covered Gypsum interior walls, 8' finished popcorn ceiling. 4" Vinyl Cove Base moldings throughout, Draft Stopping in all Bedrooms, IT Closet with 5/8" fire retardant paint, 20 minute keyed interior doors with smoke tight gaskets, EPDM Black Rubber roof with 1 1/2 inch perimeter overhang, 1 hour rated type X gypsum interior ceilings, 2 complete handicapped restrooms with showers and 80 gallon WH, rough in plumbing and electrical hook ups for all customer appliances, Hardipanel Concrete exterior, Exterior hose bibs and electrical GFI's, Exterior Flood and Porch lights, interior surface mount florescent lighting with recessed can lights in the hallways, emergency lights, Washer and Dryer Kits, Shut Down smoke detectors in the HVAC's, 7406 Manual Electrical Transfer Switch for customers emergency power, 20' of base and overhead cabinets with DBL kitchen sink and insinkErator 5/8" HP garbage disposal, bedroom privacy ceiling tracks for customer provided and installed curtains, and a NFPA-13 "R" fire sprinkler stub out system			
Sub-Total Base			\$ 259,700.00
Options			
Provide Fire Alarm System (Site-Installed) per (NFPA 101 Chapter 26 Lodging and Rooming, Section 26.3.4	1	\$ 23,900.00	\$ 23,900.00
Hi/Lo Handicapped Approved Water Cooler Installed	1	\$ 2,900.00	\$ 2,900.00
Coated Coils for HVAC units (Recommended near coastline)	1	\$ 4,900.00	\$ 4,900.00
Hardipanel Skirting, Material and Labor to match exterior	1	\$ 4,700.00	\$ 4,700.00
Purchase and Installation - ADA Ramp/Steps	1	\$ 19,900.00	\$ 19,900.00
Delivery - ADA Ramp/Steps	1	\$ 3,900.00	\$ 3,900.00
Switch back ramp with rest stop	1	\$ 9,200.00	\$ 9,200.00
Sub-Total Options			\$ 69,400.00
Grand Total			\$ 329,100.00
Notes			
No Sales Tax included			

Fabricon			
Description and Pricing	Qty	Unit Price	Extended Total
Section Modular - 28' x 70' (SM2870)	1	\$ 260,210.00	\$ 260,210.00
Delivery - 14' Wide	2	\$ 3,238.00	\$ 6,476.00
Delivery - Fuel Surcharge	1	\$ 1,200.00	\$ 1,200.00
Block, Level - Standard Complex - 35" FFE	1	\$ 5,750.00	\$ 5,750.00
Anchor - Asphalt	24	\$ 53.00	\$ 1,272.00
180 MPH Rated			\$ -
80 gallon water heater			\$ -
30" standard vent hood with Guardian fire suppression			\$ -
24" deep overhead cabinet in lieu of 12			\$ -
½ HP garbage disposal			\$ -
Armstrong Corlon sheet vinyl floor covering in lieu of VCT			\$ -
Additional Comparables	1	\$ 22,156.00	\$ 22,156.00
Sub-Total Base			\$ 297,064.00
Options			
Skirting - Metal (L)	196	\$ 28.00	\$ 5,488.00
Skirting - Metal (M)	196	\$ 18.00	\$ 3,528.00
New Alum 36' Switchback Ramp - Sale	1	\$ 14,210.00	\$ 14,210.00
Delivery - Ramp	1	\$ 500.00	\$ 500.00
Installation - Ramp	1	\$ 900.00	\$ 900.00
New Alum Stairs/Decking - ADA Sale	1	\$ 3,358.00	\$ 3,358.00
Delivery - Stairs/Steps	1	\$ 200.00	\$ 200.00
Installation - Stairs/Steps	1	\$ 75.00	\$ 75.00
Awning - 5'x5' Fixed Aluminum	1	\$ 1,650.00	\$ 1,650.00
Installation - FA55 Awning	1	\$ 500.00	\$ 500.00
Permit Drawings, Foundation Plan	1	\$ 950.00	\$ 950.00
Sub-Total Options			\$ 31,359.00
Grand Total			\$ 328,423.00
Notes			
No Sales Tax included			
No Fire Alarm System			
No Hi/Lo Handicapped Water Cooler			
No Coated Coils on A/C units			

WillScot			
Description and Pricing	Qty	Unit Price	Extended Total
76x24 Section Mod. (72x24 Box)	1	\$ 392,857.14	\$ 392,857.14
Delivery - Fuel Surcharge	1	\$ 200.00	\$ 200.00
Delivery Freight	2	\$ 7,245.00	\$ 14,490.00
Block and Level	1	\$ 4,770.00	\$ 4,770.00
Sub-Total Base			\$ 412,317.14
Options			
Skirting - Metal (L)	192	\$ 12.86	\$ 2,469.12
Ramp - Delivery & Installation	1	\$ 1,071.43	\$ 1,071.43
ADA/IBC Ramp - 30' & Under	1	\$ 8,142.86	\$ 8,142.86
Essentials Material Handling	2	\$ 578.33	\$ 1,156.66
ADA/IBC Step - Sale	1	\$ 1,857.14	\$ 1,857.14
Trip Charge	1	\$ 334.33	\$ 334.33
Sub-Total Options			\$ 15,031.54
Grand Total			\$ 427,348.68
Notes			
No Sales Tax included			
No Fire Alarm System			
Shell only no interior buildout			

December 22nd, 2021

Town of Palm Beach
Purchasing Department
Palm Beach, FL 33480

Re: Purchase and Install of Temporary Fire Station Dormitory and Storage Unit

Dean,

Please find below our proposed change order to supply and install a new custom built dormitory trailer and one conditioned storage unit for the North Fire Station. These two facilities will be utilized during the demolition and construction of the historic north fire station located at 300 N County Road. We have also included preliminary allowances for expenses that will be incurred related to the setup of this trailer. This trailer mimics the temporary trailer installed during the West Palm Beach Station 4 construction and is currently stationed on Roebuck Rd, WPB. The North Fire Station representatives have walked and approved the layout of the trailer.

It is crucial to place an order to manufacture this custom trailer as the lead times for shop drawings, materials and production can delay our project. As a tentative timeline –

1. Trailer Deposit Paid – January 2021
2. Shop Drawings through Production – 14-16 weeks – May 2021
3. Site Setup, Utilities Hook Up, Fire Sprinkler and Locution Setup, Move In – June 2021

Interior demolition will commence once the fire station has been relocated to this temporary facility.

Scope Addition Change Order Value -

Temporary Trailers Supply and Install including Select Options - 28x70 trailer building	\$329,100
Temporary Trailers Design Coordination, Pricing, Installation and Logistical Coordination Allowance	\$10,000
Fire Sprinkler System Water Connection, Final Install, Testing, Maintenance Allowance	\$18,000
Locution System - Communications for Temporary Fire Station - Antenna, Speakers, Control Unit, Raceways in Trailer, Related Patching and Painting Allowance	\$35,000
Temporary Site Prep Work as required Allowance	\$25,000
Striping on Roads for Redirecting Traffic, Stop Sign, Warning Mat, Thermoplastic Crosswalk Allowance	\$8,500
Temporary Conditioned Storage for Equipment Allowance	\$25,000
Curtains for Bunk Beds Allowance	\$5,000
Price Escalation Contingency on Dormitory Trailer - 10%	\$32,910
Subtotal	\$488,510
Contractor's Fee - 8%	\$39,081
Insurance - 1.3%	\$6,859
Grand Total	\$534,449
An allowance is defined as a sum of money, for a specific scope or items, which may increase or decrease in value, depending on the final selection of design, material or product. All allowances are for labor and material.	



BRINGING VISIONS TO REALITY

(Signature)

Gene Parker, COO and President
Luxury Residential Division

(Date)

(Signature)

_____, Owner

(Date)

RESOLUTION NO. 133-2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE AWARD OF RFQ NO. 2021-32 CMAR SERVICES - NORTH FIRE STATION RESTORATION PROJECT TO HEDRICK BROTHERS CONSTRUCTION COMPANY INC., AND AWARDED A PRECONSTRUCTION SERVICES AGREEMENT FOR THE PROJECT IN AN AMOUNT OF \$715,633, AND ESTABLISHING A PROJECT BUDGET OF \$858,759

BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves the award of RFQ No. 2021-32 CMAR Services - North Fire Station Restoration Project to Hedrick Brothers Construction Company Inc., and Awarding a Preconstruction Services Agreement for the Project in an Amount of \$715,633 and Establishing a Project Budget of \$858,759

Section 2. The Town Manager is hereby authorized to execute this request on behalf of the Town of Palm Beach for this improvement.

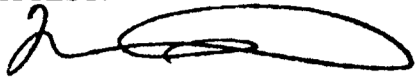
Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the completion of the said project work, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 9th day of November 2021.

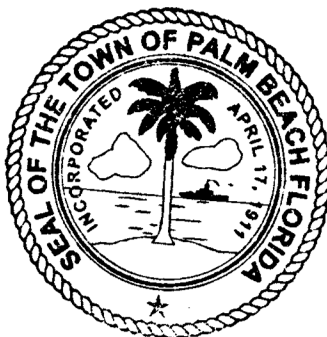


Danielle H. Moore, Mayor

ATTEST:



Queenester Nieves, CMC, Town Clerk



TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 001-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Department of Public Works Engineering Division Standard Applicable to Public Rights of Way and Easements, by Changing the Title and Amending Chapter XII, Miscellaneous Provisions, Construction Parking.

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- ▣ **Memorandum Dated December 16, 2021 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Resolution No, 001-2022**
- ▣ **Exhibit A**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building



Re: Changes to Chapter 18 and the Public Works Right of Way Manual to Include Certain Construction Site Violations as “Strikes” Under the “Three Strike Program” – Ordinance No. 28-2021 (Second Reading) and Resolution No. 001-2022 (Adoption)

Date: December 16, 2021

GENERAL INFORMATION

Chief Nicholas Caristo recently raised the idea of creating “strikes” under the “Three Strikes” program for certain construction site violations. These violations, such as noise, work hours, or mandatory construction screening violations, would be considered a strike, similar to right of way parking violations. Once a construction project receives three strikes, PZB issues a stop work order for the job and only the Town Council can re-activate the work.

PZB finds this to be an excellent way of forcing contractors to play by the Town’s rules. Many contractors do not fear a fine of \$250 or even \$500 for violations, or they do not fear a lengthy Code Enforcement process, which at the end of many months may result in only the payment of fines. But to actually receive three strikes and have the project shut down is something we believe that they will prevent.

The existing construction parking three strikes program is proposed to be expanded by including violations for many of the violations that occur due to poor construction site management. Staff has proposed a resolution to amend the Public Works Right of Way Manual at Chapter XII, Miscellaneous Provisions; and an ordinance to add an Article to Chapter 18, Buildings and Building Regulations. Between these two documents, the ability to declare additional strikes becomes reality.

This concept was reviewed with Police Chief Caristo and with Public Works Director Paul Brazil. They are supportive of the effort. The draft documents were also reviewed by Skip Randolph for form, content, and legal sufficiency. Ordinance No. 28-2021 was approved on First Reading at your December 14, 2021 meeting. It is ready for adoption on Second Reading.

In addition, Resolution No. 001-2022 is ready for consideration and adoption, as this resolution provides the technical changes to the Public Works Right of Way Manual to incorporate the additional categories of strikes under the program.

cc: Jay Boodheshwar, Deputy Town Manager
James Murphy, Assistant Planning, Zoning and Building Director
John Randolph, Town Attorney
Chief Nicholas Caristo
Paul Brazil, Director of Public Works

RESOLUTION NO. 001-2022

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION STANDARD APPLICABLE TO PUBLIC RIGHTS OF WAY AND EASEMENTS, BY CHANGING THE TITLE AND AMENDING CHAPTER XII, MISCELLANEOUS PROVISIONS, CONSTRUCTION PARKING

WHEREAS, the Town Council has adopted the Department of Public Works, Engineering Division Standards Applicable to Public Rights of Way and Easements (aka "Right of Way Manual") by Ordinance 11-94 on July 12, 1994; and

WHEREAS, the Right of Way Manual is reviewed from time to time and may be modified by Resolution of the Town Council; and

WHEREAS, the Town has determined that the section regarding "Construction Parking", found in the Right of Way Manual, Chapter XII, Miscellaneous Provisions, shall be titled "Construction Parking and Construction Site Management"; and

WHEREAS, the Town has determined that certain construction site violations should be added to the Right of Way Manual at Chapter XII, Miscellaneous Provisions, Construction Parking and Construction Site Management.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. The Right of Way Manual is hereby amended at Chapter XII, Miscellaneous Provisions, Construction Parking, as provided on Exhibit "A", attached.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 11th day of January, 2022.

Danielle H. Moore, Mayor

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

EXHIBIT “A”

Town Public Works Right of Way Manual

Chapter XII, Miscellaneous Provisions

Construction Parking & Construction Site Management

Construction parking on public streets and construction site management shall be controlled in order to protect the public's health, safety and welfare. The rules and procedures outlined below are commonly referred to as the Town's "3-Strike Rule".

All vehicles belonging to personnel working on or visiting a construction site from the date of the issuance of a building permit, to the date of the issuance of the certificate of occupancy, shall be parked on the construction site at all times. If the site cannot accommodate such vehicles, then the contractor may initiate car and/or truck pooling, apply for up to, but not more than, three (3) right-of-way permits for parking construction vehicles on the street in front of the construction site or, utilize both options in order prevent unnecessary congestion adjacent to the construction site.

The following rules and procedures shall govern the 3-Strike Rule:

1. Owner/contractor may apply for up to, but not more than, three (3) right-of-way permits for the temporary parking of construction-related vehicles.
2. Contractor will be asked if right-of-way parking permits are anticipated at time of initial building permit application. If anticipated at that time, or any subsequent time, a parking plan must be provided on an application form as prescribed by the Town, at a legible scale, as determined by the Town which clearly illustrates the entire construction site.
3. Applications must include a notarized signature from the property owner acknowledging understanding of the 3-strike rule in its entirety. A notarized power of attorney signature will be accepted by the Town, provided it specifies that the owner has been personally informed of the entire 3-strike rule.
4. The Public Works Department will review all such applications upon payment of the following fee(s) (see Appendix C). Public Works shall determine whether or not to approve the application, and if approved, whether 1, 2, or 3 right-of-way permits are issued.
5. The contractor must apply for a permit(s) from Public Works within seventy-two (72) hours in advance of the short-term use of the public right-of-way. Only extreme extenuating circumstances will be considered otherwise.
6. As a condition of approval, contractor is required to provide the Town with tag numbers of all vehicles authorized by the contractor to work at the site and is responsible for updating for any reason that may cause a change in the tag number list for a job site. The Director of Public Works or the Director's designees, which may include code enforcement officers, parking enforcement officers, and police officers, are authorized to enforce all "3-strike rule" provisions and to issue citations for violations of these provisions. Parking permit must be displayed on the dashboard of the vehicle. Failure to comply will result in a strike.
7. Owner/contractor must designate a private employee to act as a traffic monitor at each site to enforce Town rules when on-street construction parking is allowed. The traffic monitor must be present whenever work is occurring. Failure to do so constitutes a strike.

8. If the Town finds that there is no dedicated traffic monitor at a construction site, all right-of-way permits shall be immediately revoked and one (1) strike will be assessed.
9. When car or truck pooling is utilized, no substitute on-street parking spaces in the Town can be utilized for said purpose. Failure to comply will result in a strike.
10. Worth Avenue right-of-way permits shall be limited to two (2) vehicles for purposes of loading or unloading and for essential construction activities. Parking of construction vehicles that are not actively involved in the loading and unloading process will not be permitted. Failure to comply will result in a strike.
11. Only original Town-issued permits are valid. Permits may be transferred between vehicles but are valid only for the construction site for which they are issued. Failure to comply will result in a strike.
12. Copying, forging or duplication of a right-of-way permit is prohibited. All right-of-way permits will be immediately revoked if the Town determines that duplication or abuse has occurred.
13. Additional permits may be issued for the three (3) week period prior to the estimated date of issuance of the certificate of occupancy in the event said vehicles cannot be accommodated on site. The number of permits granted shall be determined by the Director of Public Works, or his designee.
14. Property owners and their contractors shall be responsible for the implementation, installation, and maintenance of all required demolition and construction screening, perimeter landscaping, screening of on-job toilet facilities, following the truck logistics and staging plan, and any and all site conditions required by Chapter 18, Buildings and Building Regulations, including Sections 18-2 (Landscaping; maintenance where used for screening), 18-3 (On-job toilet facilities, required), 18-86 (Construction staging and truck logistics plan), 18-111 (Compliance with the Town's right of way manual), and 18-201 (Construction screening). Any Town-documented lack of the required item(s) or lack of maintenance of the item(s) will constitute one (1) strike, and the Town will concurrently prosecute the violation(s) through the Code Enforcement process.
15. Property owners and their contractors shall be responsible for compliance with the noise regulations and the hours for construction work, found in Chapter 42, Environment, Sections 42-197 through 42-199. Any Town-documented violation of these sections will constitute one (1) strike, and the Town will concurrently prosecute the violation(s) through the Code Enforcement process.
- ~~14.~~
- ~~15.~~16. Failure to comply with the aforementioned conditions may result in the suspension, fines, or in the case of repeat offenses, the cancellation of the violator's building permit.
- ~~16.~~17. Penalty for parking in the right-of-way in violation of this section shall be \$150 per day/per vehicle for the first offense, \$250 per day/per vehicle for the second offense, and \$500 thereafter.
- ~~17.~~18. Said penalty may be appealed in writing within seven (7) calendar days of the date of issuance -to either the ~~Director of Public Safety~~Chief of Police or ~~the Director of~~ Public Works (dependent upon the Department issuing the ticket), who shall, thereafter, act on said appeal. If the appeal is upheld, then the 1st, 2nd, or 3rd strike, as applicable, shall be removed from the record. Construction may continue until the appeal has been acted upon.
- ~~18.~~19. When a 3rd strike has been issued, and if an appeal is denied or is not filed in timely fashion, the Planning, Zoning & Building Department shall issue a Stop Work Order halting all continued activity at the site.

~~19-20.~~ All requests to lift the stop work order must be decided by the Town Council, upon written application to the Planning, Zoning & Building Department, no less than seven (7) days prior to a regularly scheduled monthly Town Council (Development Review) meeting.

~~20-21.~~ The Town Council shall have the power to admonish the contractor; take such action as deemed necessary to effect the stop work order on a permanent basis by nullifying the existing building permit; cause the contractor and/or property owner to enter into a binding agreement to memorialize the understandings between the Town and the contractor and/or property owner relative to all conditions placed upon the lifting of the stop work order, if applicable; establish penalties for future right-of-way violations the amount for which shall be in the sole discretion of the Town Council; and/or collect any unpaid penalties.

~~21-22.~~ If a Stop Work Order is lifted, no additional right-of-way permits for the duration of the work in question shall be issued unless specifically approved by the Town Council.

All vehicles belonging to personnel working on or visiting a construction site from the date of the issuance of the permit, to the date of the issuance of the certificate of occupancy, shall be parked on the construction site at all times. If the site is limited, then the contractor must initiate "car and/or truck pooling." A site plan may be required to illustrate that the site is being fully and efficiently used for construction material storage and parking. Additionally, contractor is required to provide to the Town the tag numbers of all vehicles authorized by the contractor to work at the site. The Director of Public Works or the Director's designees, which may include code enforcement officers, parking enforcement officers, and police officers, are authorized to enforce the provisions of this paragraph on construction parking and to issue citations for violations of these provisions.

All contractor's equipment shall be parked on the construction site. If the contractor cannot park his/her equipment on the site, or in the event all vehicles described herein cannot be parked on the site, a right-of-way permit will be required to park said equipment or vehicles in the public right-of-way. The contractor must apply for a permit or permits from the Public Works Director within seventy-two (72) hours in advance of the short-term use of the public right-of-way. (Only extreme extenuating circumstances will be considered.)

Parking permits will be issued for Worth Avenue for up to two (2) vehicles for purposes of loading or unloading and for essential construction activities. Parking of construction vehicles that are not actively involved in the loading and unloading process will not be permitted.

Parking permits for other areas in the Town will be issued for up to three (3) vehicles to park within the rights-of-way in the event it is determined that said vehicles cannot be accommodated on site. In addition, one permit shall be provided to the owner of the property. Only original permits are valid, no copies are allowed. Permits may be transferred between vehicles but are valid only for the construction site for which they are issued. Additional permits may be issued for the three (3) week period prior to the issuance of the Certificate of Occupancy in the event said vehicles cannot be accommodated on site. The number of permits granted shall be determined by the Director of Public Works.

Failure to comply with the aforementioned conditions may result in suspension, fines, or in the case of repeat offenses, the cancellation of the violator's building permit. Penalty for parking in the right-of-way in violation of this section shall be \$150 per day/per vehicle for the first offense, \$250 per day/per vehicle for the second, and \$500 thereafter. Said penalty may be appealed in writing within seven (7) calendar days of the date of issuance to the ~~Director of Public Safety~~ Chief of Police or the Director of Public Works (dependent upon the Department issuing the ticket), who shall act on said appeal. If the appeal is upheld,

then the 1st, 2nd, or 3rd strike, as applicable, shall be removed from the record. Construction may continue until the appeal has been acted upon.

Once a contractor has accumulated three (3) violations or “strikes” at a single site that have either exceeded the appeal period or the appeal(s) have been adjudicated in favor of the Town, as described in the Town Right of Way Manual, the Director of Planning, Building, and Zoning (PZ&B) shall have issued a “stop work” order as allowed in Section 18-204 of the Town Code.

If after issuing the stop work order and reviewing the case, the Director of PZ&B concludes there are no mitigating circumstances that caused the contractor to receive any of the three (3) strikes, the Director of PZ&B must forward the matter to the Town Council at their next available meeting should the contractor and/or the property owner request in writing that the Town Council give consideration to lifting the stop work order.

If after issuing the stop work order and reviewing the case, the Director of PZ&B is convinced that mitigating circumstances caused the contractor to receive any one of the 3 strikes, the Director of PZ&B may waive that strike causing the contractor to have 2 strikes, but only upon payment of a fine of \$250, plus payment of any outstanding right-of-way fines, accumulated interest, and subject to the Director of PZ&B being satisfied that there will be strict future compliance with the Town regulations and/or the Right-of-Way Manual by the contractor at the job site in question. Periodically, as often as determined appropriate by the Town Manager, the Director of PZ&B shall provide a report to the Town Manager delineating the mitigating circumstance(s) that gave cause for him or her to remove a strike incurred by a contractor under this section.

If there is another strike received by the contractor on the same job site that results in a total of 3 strikes at a given job site, the Chief of Police or the Director of Public Works (dependent upon the Department issuing the ticket) will notify the Director of PZ&B of the situation upon passage of the time allowed for appeal. The Director of PZ&B must suspend the work activity on the site via issuance of a “stop work” order as allowed in Section 18-204 of the Town Code, subject to reinstatement only by application of the building permit applicant to the Town Council at their next regularly scheduled meeting.

When the Town Council receives a written request to lift a stop work order the Town Council shall have the power to admonish the contractor; take such action as deemed necessary to effect the stop work order on a permanent basis by nullifying the existing building permit; cause the contractor and/or property owner to enter into a binding agreement to memorialize the understandings between the Town and the contractor and/or property owner relative to all conditions placed upon the lifting of the stop work order, if applicable; establish penalties for future right-of-way violations the amount for which shall be in the sole discretion of the Town Council; collect the “3 strike” fine, plus payment of any outstanding right-of-way fines and accumulated interest, as referenced herein below and to prohibit the issuance of any additional right-of way permits for the duration of the work in question.

The fine for a third (3rd) and each subsequent strike shall be \$500 plus payment of any outstanding right of-way fines and accumulated interest unless the Town Council chooses to invoke the use of a binding agreement memorializing a penalty structure to be paid to the Town for all future right-of-way violations in excess of three (3) to be paid in accordance with the terms and conditions of the binding agreement between the Town and the contractor and/or property owner. All fines and penalties shall be paid in full prior to issuance of a Certificate of Occupancy for the construction associated with the activity that generated the fines, penalties, and interest.

Before issuance of a building permit, a Power of Attorney or notarized owner's signature is required as the owner's acknowledgement of the "3 strike" rule.

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 002-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of ITB No. 2022-08, A-7 Pump Station Improvement to TLC Diversified, Inc. in the Amount of \$333,000 and Establishing a Project Budget of \$383,000.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated December 17, 2021 from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 002-2022**
- ▣ **Bid Tab**

Information for Town Council Meeting on January 11, 2022

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Jane Le Clainche, CPA, Director of Finance

FROM: Dean Mealy, II CPPO Town Purchasing Manager

RE: Resolution Approving the Award of ITB 2022-08 A-7 Pump Station Improvements to TLC Diversified, Inc in the Amount of \$333,000 and Establish a Project Budget of \$383,000; **Resolution No. 002-2022**

DATE: 17 December 2021

STAFF RECOMMENDATION

Staff recommends Town Council approve the Award of ITB 2022-08, A-7 Pump Station Improvements to TLC Diversified, Inc in the Amount of \$333,000 and Establish a Project Budget of \$383,000.

SUMMARY EXPLANATION/BACKGROUND

The work of this Contract comprises of improvements to wastewater pump station, A-7, for the Town of Palm Beach. The work will include but not be limited to new pumps with cooling jackets, suction pipe improvements, minor electrical work for motor control, and by-pass pumping (as needed). The intent of these specifications was to obtain bids and enter into a contract for all labor, materials, equipment, and services necessary for and reasonably incidental for full and complete execution of the described work. The submitted bid met these requirements.

The general location of the proposed work is located at the wastewater pump station, A-7, located at Island Drive and South County Road.

METHOD OF PROCUREMENT

The Public Works Department developed a scope of services which was reviewed by the Purchasing. The Invitation to Bid (ITB) was issued on November 23rd and closed on December 15th.

The solicitation was broadcast nationwide to nine hundred forty-one (941) identified firms through DemandStar. In addition, Town Purchasing sent emails to five (5) known consultants/individuals advising of the solicitation and invited the consultants to review and participate in the solicitation.

The bid submittal was reviewed by the Town Engineering Staff and the award is recommended.

FISCAL IMPACT/FUNDING SOURCE

The funding for this program is from Pay As You Go.

USER DEPARTMENT CONCURRENCE

Public Works is in full concurrence with this recommendation.

DUE DILIGENCE

Due Diligence was conducted to determine vendor responsibility, including corporate status and that there are no performance and compliance issues.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

RESOLUTION NO. 002-2022

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING THE AWARD OF ITB NO. 2022-08, A-7 PUMP
STATION IMPROVEMENT TO TLC DIVERSIFIED, INC. IN
THE AMOUNT OF \$333,000 AND ESTABLISHING A PROJECT
BUDGET OF \$383,000**

NOW, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH,
PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves Resolution No. 002-2022, approving the Award of ITB 2022-08, A-7 Pump Station Improvement to TLC Diversified, Inc. in the Amount of \$333,000 and Establish a Project Budget of \$383,000.

Section 2. The Town Manager is hereby authorized to execute this purchase order on behalf of the Town of Palm Beach for these improvements.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 11th day of January, 2022.

Danielle H. Moore, Mayor

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

Evaluation phase  Ends on **Jan 11 2022 7:00 AM**

8558 ITB 2022-08 A-7 Pump Station Improvements

Compare & Select

Offer phase (3)  Evaluation (3)  Awarding

 **1. Solicitation Package** 3 of 3 Complete offers 21 Questions

Pricing sheet "Pricing Sheet";

Price 100%  0% Quality

Comparison table

Sort by: Rank

Offers/Applications	Rank	Knockouts of 20	unanswered question(s) of 21	Uploads missed of 14	Incomplete evaluations of 12	Price	Quality score	Price score	Total score	Phase
 TLC Diversified, Inc. TLC Diversified, Inc. Dec 15 2021 1:40:05 PM	1	-	-	<u>1</u>	-	\$333,000	0%	0%	0%	Evaluation
 Hinterland Group, Inc. Hinterland Group, Inc. Dec 15 2021 1:38:56 PM	2	-	-	<u>1</u>	-	\$367,600	0%	0%	-3460000%	Evaluation
 Boromei Construction, Inc Boromei Construction, Inc Dec 15 2021 1:44:26 PM	3	-	-	<u>1</u>	-	\$423,971	0%	0%	-9097100%	Evaluation

Compare by: ☒ Question groups ☐ Questions

Sort by: Rank



Question groups:



TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 003-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFQ No. 2022-05, Prequalification of General Utility Project Vendors to the Following Four Firms: D.S. Eakins Construction Corporation, Johnson-Davis Inc., TLC Diversified Inc. and Hinterland Group, Inc.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated December 17, 2021 from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 003-2022**
- ▣ **Bid Tab**

Information for Town Council Meeting on January 11, 2022

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Jane Le Clainche, CPA, Director of Finance

FROM: Dean Mealy, II CPPO Town Purchasing Manager

RE: Resolution Approving the Award of RFQ No. 2022-05, Prequalification of General Utility Project Vendors to the following Four Firms; D.S. Eakins Construction Corporation, Johnson-Davis, Inc., TLC Diversified, Inc. and Hinterland Group, Inc.
Resolution No. 003-2022

DATE: 17 December 2021

STAFF RECOMMENDATION

Staff recommends Town Council approve the Award of RFQ No. 2022-05, Prequalification of General Utility Project Vendors to the following Four Firms; D.S. Eakins Construction Corporation, Johnson-Davis, Inc., TLC Diversified, Inc. and Hinterland Group, Inc.

SUMMARY EXPLANATION/BACKGROUND

The purpose of this solicitation was to pre-qualify proposers for a vendor pool, for future miscellaneous public works utility projects. This solicitation required for the submission of documents and forms intended to verify that the proposer meets or exceeds the minimum criteria set forth elsewhere in this solicitation. Proposers which best meet or exceed the criteria established in this solicitation are being placed in a Pre-Qualification Vendor Pool that in future will be accessed by Town requesting to submit their bids to perform miscellaneous public works utility and related projects for the Town of Palm Beach, Florida.

For each subsequent project under this contract, the Town will provide to the pre-qualified pool of vendors a written and complete Statement of Work specific to that project. If available, drawings and other documentation will be provided to assist the proposers in properly estimating reasonable costs to perform the work. Emergency repairs shall be addressed on a case by case basis. The Proposer is expected to furnish all labor, equipment and materials necessary to repair, and/or replace existing or install the following new utilities: water, sanitary sewer, storm sewer, and force mains at various sites within the Town of Palm Beach.

Individual projects valued greater than \$100,000 will be brought to Town Council for review and ratification.

METHOD OF PROCUREMENT

The Public Works Department developed a scope of services which was reviewed by the Purchasing. The Request for Qualifications (RFQ) was issued on November 7th and closed on December 7th.

The solicitation was broadcast nationwide to eight hundred twenty (820) identified firms through DemandStar. In addition, Town Purchasing sent emails to thirty-one (31) known consultants/individuals advising of the solicitation and invited the consultants to review and participate in the solicitation.

When a RFQ is issued, price is not an evaluation factor. The proposal is based solely on qualifications of the consultants submitting.

The initial ranking Selection Committee was held on December 16th. The Selection Committee consisted of the following members:

Voting

Eric Brown, P.E.
Brett Madison
Jason Debrincat, P.E.

Non-Voting

Jie House, P.E.
Jane LeClainche, CPA
Patricia Strayer, P.E.
Mike Roach, P.E.

The Selection Committee reviewed seven (7) proposals and recommended four (4) firms for pre-qualification award. No oral interviews were conducted based on the qualifications of the firms proposals.

FISCAL IMPACT/FUNDING SOURCE

This action does not require funding.

USER DEPARTMENT CONCURRENCE

Public Works is in full concurrence with this recommendation.

DUE DILIGENCE

Due Diligence was conducted to determine vendor responsibility, including corporate status and that there are no performance and compliance issues.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

CC: Paul Brazil, P.E., Public Works Director

RESOLUTION NO. 003-2022

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING THE AWARD OF RFQ NO. 2022-05,
PREQUALIFICATION OF GENERAL UTILITY PROJECT
VENDORS TO THE FOLLOWING FOUR FIRMS: D.S. EAKINS
CONSTRUCTION CORPORATION, JOHNSON-DAVIS INC.,
TLC DIVERSIFIED, INC., AND HINTERLAND GROUP, INC.**

NOW, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH,
PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves Resolution No. 003 -2022, approving the Award of RFQ No. 2022-05, Prequalification of General Utility Project Vendors to D.S. Eakins Construction Corporation, Johnson-Davis Inc., TLC Diversified, Inc., and Hinterland Group, Inc.

Section 2. The Town Manager is hereby authorized to execute this purchase order on behalf of the Town of Palm Beach for these improvements.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 11th day of January, 2022.

Danielle H. Moore, Mayor

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

7875 RFQ No. 2022-05 Prequalification of General Utility Project Vendors

Evaluation phase  Ends on **Jan 11 2022 10:00 AM**

Compare & Select

[Offer phase \(7\)](#) [Evaluation \(7\)](#) [Awarding](#)

 [1. SOLICITATION PACKAGE DOCUMENTS & EVALUATION FACTORS](#) 7 of 7 Complete offers 29 Questions

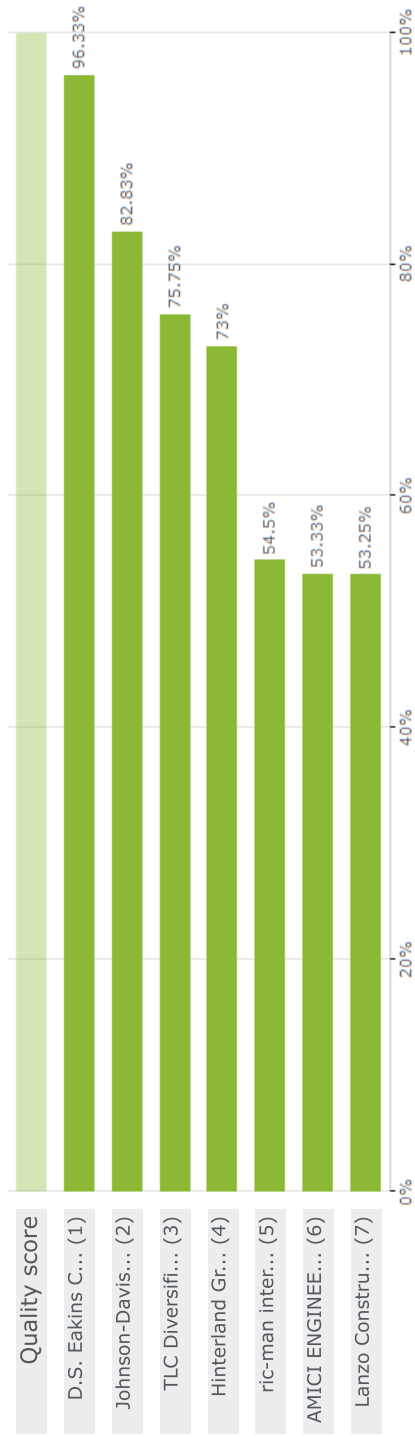
Comparison table

Sort by: Rank

Offers/Applications	Rank	Knockouts of 28	unanswered question(s) of 29	Uploads missed of 22	Incomplete evaluations of 15	Quality score	Phase
 D.S. Eakins Construction Corp. D.S. Eakins Construction Corp. Dec 7 2021 12:37:56 PM	1	-	-	2	-	96.33%	Evaluation
 Johnson-Davis, Inc. Johnson-Davis, Inc. Dec 7 2021 1:49:34 PM	2	-	-	2	-	82.83%	Evaluation
 TLC Diversified, Inc. TLC Diversified, Inc. Dec 7 2021 1:57:45 PM	3	1	-	-	-	75.75%	Evaluation
 Hinterland Group, Inc. Hinterland Group, Inc. Dec 7 2021 8:50:54 AM	4	-	-	-	-	73%	Evaluation
 ric-man international ric-man international Dec 7 2021 1:29:49 PM	5	1	-	2	-	54.5%	Evaluation
 AMICI ENGINEERING CONTRACTORS LLC AMICI ENGINEERING CONTRACTORS LLC Dec 7 2021 11:42:46 AM	6	1	-	3	-	53.33%	Evaluation
 Lanzo Construction Co., Florida Lanzo Construction Co., Florida Dec 7 2021 1:30:19 PM	7	3	-	-	-	53.25%	Evaluation

Compare by: ☒ Question groups ☐ Questions

Sort by: Rank



Question groups:

- 1.1. SOLICITATION PACKAGE DOCUMENTS (0%)
- 1.2. SUPPLIER RESPONSE & ACKNOWLEDGEMENTS (0%)
- 1.3. EVALUATION FACTORS (100%)
- 1.4. ADDENDUM - If issued will be posted here. (0%)

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 004-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFQ No. 2022-06, Prequalification of General Utility Project Vendors to the following four Firms: Murray Logan Construction, LLC, TLC Diversified, Inc., Kiewit Infrastructure South Co., and Hinterland Group, Inc.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated December 17, 2021 from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 004-2022**
- ▣ **Bid Tab**

Information for Town Council Meeting on January 11, 2022

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Jane Le Clainche, CPA, Director of Finance

FROM: Dean Mealy, II CPPO Town Purchasing Manager

RE: Resolution Approving the Award of RFQ No. 2022-06 Prequalification of Sanitary and Storm Pump Station Vendors to Murray Logan Construction, LLC, TLC Diversified, Inc., Kiewit Infrastructure South Co., and Hinterland Group, Inc.;
Resolution No. 004-2022

DATE: 17 December 2021

STAFF RECOMMENDATION

Staff recommends Town Council approve the Award of RFQ No. 2022-06 Prequalification of Sanitary and Storm Pump Station Vendors to Murray Logan Construction, LLC, TLC Diversified, Inc., Kiewit Infrastructure South Co., and Hinterland Group, Inc

SUMMARY EXPLANATION/BACKGROUND

The purpose of this solicitation is to pre-qualify proposers for a vendor pool, for miscellaneous pump stations renovation projects. This solicitation requires the submission of documents and forms intended to verify that the proposer meets or exceeds the minimum criteria set forth elsewhere in this solicitation. Proposers which best meet or exceed the criteria established in this solicitation shall be placed in a Pre-Qualification Vendor Pool that in future will be accessed by Town requesting to submit their bids to perform miscellaneous pump station and related projects for the Town of Palm Beach, Florida.

For each subsequent project under this contract, the Town will provide to the pre-qualified pool of vendors a written and complete Statement of Work specific to that project. If available, drawings and other documentation will be provided to assist the proposers in properly estimating reasonable costs to perform the work.

Emergency repairs shall be addressed on a case by case basis. In most cases contractor must respond within four hours. The Proposer is expected to furnish all labor, equipment, and materials necessary to repair, make repairs, expand capacity or completely renovate and/or replace sanitary and storm pumping stations and miscellaneous structures at various sites within the Town of Palm Beach.

Individual projects valued greater than \$100,000 will be brought to Town Council for review and

ratification.

METHOD OF PROCUREMENT

The Public Works Department developed a scope of services which was reviewed by the Purchasing. The Request for Qualifications (RFQ) was issued on November 7th and closed on December 7th.

The solicitation was broadcast nationwide to nine hundred four (904) identified firms through DemandStar. In addition, Town Purchasing sent emails to twenty-nine (29) known consultants/individuals advising of the solicitation and invited the consultants to review and participate in the solicitation.

When a RFQ is issued, price is not an evaluation factor. The proposal is based solely on qualifications of the consultants submitting.

The initial ranking Selection Committee was held on December 16th. The Selection Committee consisted of the following members:

Voting

Eric Brown, P.E.
Cory Wilder, City of Palm Beach Gardens
Brett Madison
Jason Debrincat, P.E.

Non-Voting

Mike Roach, P.E.
Jie House, P.E.
Jane LeClainche, CPA
Patricia Strayer, P.E.

The Selection Committee reviewed eight (8) proposals and recommended four (4) firms for pre-qualification award. No oral interviews were conducted based on the qualifications of the firms proposals.

FISCAL IMPACT/FUNDING SOURCE

This action does not require funding.

USER DEPARTMENT CONCURRENCE

Public Works is in full concurrence with this recommendation.

DUE DILIGENCE

Due Diligence was conducted to determine vendor responsibility, including corporate status and that there are no performance and compliance issues.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

RESOLUTION NO. 004-2022

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING THE AWARD OF RFQ NO. 2022-06,
PREQUALIFICATION OF GENERAL UTILITY PROJECT
VENDORS TO THE FOLLOWING FOUR FIRMS: MURRAY
LOGAN CONSTRUCTION, LLC, TLC DIVERSIFIED, INC.,
KIEWIT INFRASTRUCTURE SOUTH CO., AND HINTERLAND
GROUP, INC.**

NOW, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH,
PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves Resolution No. 004 -2022, approving the Award of RFQ No. 2022-06 Prequalification of Sanitary and Storm Pump Station Vendors to Murray Logan Construction, LLC, TLC Diversified, Inc., Kiewit Infrastructure South Co., and Hinterland Group, Inc.

Section 2. The Town Manager is hereby authorized to execute this purchase order on behalf of the Town of Palm Beach for these improvements.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 11th day of January, 2022.

Danielle H. Moore, Mayor

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

7855 RFQ No. 2022-06 Prequalification of Sanitary and Storm Pump Station Vendors

Evaluation phase  Ends on **Jan 11 2022 10:00 AM**

Compare & Select

[Offer phase \(8\)](#) [Evaluation \(8\)](#) [Awarding](#)

 [1. SOLICITATION PACKAGE DOCUMENTS & EVALUATION FACTORS](#) 8 of 8 Complete offers 28 Questions

Comparison table

Sort by: Rank

Offers/Applications	Rank	Knockouts of 27	unanswered question(s) of 28	Uploads missed of 21	Incomplete evaluations of 14	Quality score	Phase
 Murray Logan Construction, LLC Murray Logan Construction, LLC Dec 7 2021 10:58:04 AM	1	-	-	<u>1</u>	-	90.25%	Evaluation
 TLC Diversified, Inc. TLC Diversified, Inc. Dec 7 2021 1:48:53 PM	2	-	-	-	-	82.75%	Evaluation
 Kiewit Infrastructure South Co Kiewit Infrastructure South Co Dec 7 2021 7:58:25 AM	3	-	-	<u>2</u>	-	75.38%	Evaluation
 Hinterland Group, Inc. Hinterland Group, Inc. Dec 7 2021 9:10:10 AM	4	-	-	-	-	73.75%	Evaluation
 Lanzo Construction Co., Florida Lanzo Construction Co., Florida Dec 7 2021 1:45:48 PM	5	<u>2</u>	-	-	-	64.13%	Evaluation
 ric-man international ric-man international Dec 7 2021 1:31:46 PM	6	-	-	<u>3</u>	-	63.5%	Evaluation
 AMICI ENGINEERING CONTRACTORS LLC AMICI ENGINEERING CONTRACTORS LLC Dec 7 2021 11:19:31 AM	7	-	-	<u>4</u>	-	62.5%	Evaluation
 Intercounty Engineering, Inc.	8	-	-	<u>2</u>	-	50.13%	Evaluation

Compare by: ☒ Question groups ☐ Questions

Sort by: Rank



Question groups:

- 1.1. SOLICITATION PACKAGE DOCUMENTS (0%)
- 1.2. SUPPLIER RESPONSE & ACKNOWLEDGEMENTS (0%)
- 1.3. EVALUATION FACTORS (100%)
- 1.4. ADDENDUM - If issued will be posted here. (0%)

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 005-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Piggyback Contract to Convergent Technologies for Public Safety Camera System in the Amount of \$200,000.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated December 20, 2021 from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 005-2022**

Information for Town Council Meeting on January 11, 2022

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Jane Le Clainche, CPA, Director of Finance

FROM: Dean Mealy, II CPPO Town Purchasing Manager

RE: Resolution Approving the Award of a Piggyback Contract Award to Convergent Technologies for Public Safety Camera System in the Amount of \$200,000;
Resolution No. 005-2022

DATE: 20 December 2021

STAFF RECOMMENDATION

Staff recommends Town Council approve the Award of a Piggyback Contract to Convergent Technologies for the Public Safety Camera System in the Amount of \$200,000.

SUMMARY EXPLANATION/BACKGROUND

The recommendation to Piggyback the Convergent Technologies Contract will provide the necessary platform for Police and IT to secure proposals for design, buildout and maintenance.

The Town has had two previous providers for this service. Both of the previous suppliers have been from a Piggybacked contract. As Police and IT have experienced issues with support for both new installations and maintenance, a decision was made to attempt to issue our own solicitation for the required services. A scope of work was developed by IT, Police and Public Works and RFP No. 2021-23 for Public Safety Camera System and Surveillance and Plate Recognition was issued on August 11th.

Upon receipt of the proposals and ranking by the Selection Committee, it was noted that the top ranked firm, Vetted Security Solutions did not have the capacity to be certified by the Genetec Software, a requirement for IT for the Camera System of the solicitation. However, Vetted Security Solutions was determined to be responsive to the License Plate Recognition portion of the solicitation. The Town worked with the top ranked vendor for a period of time to see if they could become certified by Genetec which did not happen for the Camera System.

In an outreach to other Public Safety Agencies, IT and Procurement Departments for their awarded vendor for Camera System along with the requirement of the Genetec software, it was noted that City of West Palm Beach had recently awarded a contract to Convergent Technologies.

Subsequently, the Town Police, IT and Purchasing met with the account representative from

Convergent Technologies to detail our requirements for award. There was consensus that Convergent Technologies would be able to meet the Town's requirements. The City of West Palm Beach report satisfactory performance by the vendor.

METHOD OF PROCUREMENT

The contract award will be from a Piggyback Contract established for the City of West Palm Beach.

FISCAL IMPACT/FUNDING SOURCE

The funding for this program is from Police Department Operating Budget.

USER DEPARTMENT CONCURRENCE

The Police Department and IT Department are in full concurrence with this recommendation.

DUE DILIGENCE

Due Diligence was conducted to determine vendor responsibility, including corporate status and that there are no performance and compliance issues.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

RESOLUTION NO. 005-2022

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A PIGGYBACK CONTRACT TO CONVERGINT
TECHNOLOGIES FOR PUBLIC SAFETY CAMERA SYSTEM IN
THE AMOUNT OF \$200,000**

NOW, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH,
PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves Resolution No. 005 -2022, approving the Award of a Piggyback Contract Award to Convergent Technologies for Public Safety Camera System in the Amount of \$200,000.

Section 2. The Town Manager is hereby authorized to execute this purchase order on behalf of the Town of Palm Beach for these improvements.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 11th day of January, 2022.

Danielle H. Moore, Mayor

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Consent - Other

Agenda Title

Updated Request from the Palm Beach Navy SEAL Evening of Tribute

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▣ **Memorandum Dated December 28, 2021, from Jay Boodheshwar, Deputy Town Manager**
- ▣ **Letter from Matthew Smith**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Request from the Palm Beach Navy SEAL Evening of Tribute to Approve Landing and Taking Off of Helicopter at the Breakers Golf Course Driving Range

Date: December 28, 2021

STAFF RECOMMENDATION

Staff recommends the Town Council consider granting an exception to Section 14-34 of the Town Code to permit landing and taking off a helicopter on the Breakers Golf Course driving range during the Palm Beach Navy SEAL Evening of Tribute event on April 6, 2022.

GENERAL INFORMATION

On October 12, 2021, Council approved the use of Town-owned property in West Palm Beach for landing and taking off a helicopter, associated with a Navy SEALs demonstration during the Annual Palm Beach Navy SEAL Evening of Tribute. Said approval carried several conditions, including obtaining approval from the City of West Palm Beach.

Subsequent to the approval from Town Council, planners for the event have learned that the helicopter pilot did not approve of the West Palm Beach site and requested a more secluded location. As outlined in the attached letter from the event Co-Chair, Matthew Smith, the Breakers has approved the use of the driving range but Council approval is required to grant an exception to Section 14-34 of the Town Code.

Attachment

cc: Carolyn Stone, Assistant Town Manager
Department Directors
Karen Temme, Risk Manager
Matthew Smith, Event Co-Chair



PALM BEACH NAVY SEAL EVENING OF TRIBUTE

To honor the US NAVY SEALs

To Benefit the NAVY SEAL Foundation and NAVY SEAL Museum

To the Palm Beach Town Council,

I have lived in the Town of Palm Beach for over 25 years.

I have agreed to Co-Chair the upcoming Palm Beach Navy SEAL Evening of Tribute, which is taking place at The Breakers Hotel on April 6th, 2022.

The Palm Beach Evening of Tribute is an amazing 501C3 organization and biennial event, benefitting the Navy SEAL Foundation and the Navy SEAL Museum.

The Tribute honors the Navy SEALs for their dedication, their courage, and the personal sacrifices they make every day in defense of our nation, and the beliefs we hold so dear.

I would like to make two requests:

1. Previously, the Town Council had approved out request to stage the Helicopter for the Navy Seal Demonstration on the Town of Palm Beach's property, which is located on the 3 acres between N Quadrille Blvd and 6th Street, east of the railroad tracks. The helicopter Pilot did not like this location to stage the helicopter landing and take off.

The pilot had requested that we stage the helicopter at the Breakers Driving Range, which is very large and convenient for the demonstration The reason for this request is that during the Event at the Breakers on April 6th 2022, The Navy SEALs will be flying a helicopter over the ocean behind the Breakers Hotel beach club. The SEALs need a nearby staging area for the helicopter to prepare for the flight

The Breakers has already approved the use of the Breakers Driving Range for the Helicopter Staging Area. It will be after the Driving Range is closed for the evening and no golfers will be present there.

2. We would also like to withdraw the approval to use the Town-Owned Land in West Palm Beach for then staging area on April 6th. We won't need access to this land at all.

We will be providing the appropriate liability forms and waivers to the Town of PB for the staging of the helicopter and the jump at The Breakers.

Thank you very much!

Sincerely,

Matthew K. Smith

Co-Chair Palm Beach Navy Seal Evening of Tribute

Phone: (561) 459-6999 • E-mail: info@PBNSEveningofTribute.org • www.pbnsenveningoftribute.org

1-11-22 TCM Backup 277 Royal Poinciana Way #190 • Palm Beach, Florida 33480 • Tax ID #81-1955263

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Consent - Other

Agenda Title

Annual Report from Palm Beach Island Cats

Presenter

David Levitt, Palm Beach Island Cats

ATTACHMENTS:

- ▣ **Palm Beach Island Cats 2021 Annual Report**

PALM BEACH ISLAND CATS 2021 ANNUAL REPORT

2021 CATS HANDLED - Jan. 1- Dec. 31

Total animals trapped.	40
New alters.	9
Medical treatment.	12
Kittens.	11
3 litters	
Only 2 kittens returned to island	
9 placed for adoption	
Total deceased cats	8
Euthanized.	5
Hit by car.	3

Of the 40 animals handled, all live animals were vaccinated or revaccinated, totaling 32.

FOOD USED

5,614 lbs. of Taste of Wild dry cat food
63,303 cans of wet food

STATUS

Palm Beach Island Cats (PBIC) excels largely due to the continued excellent performance of our Field Director, Patricia Kinion and Feeder, Damian Vidaurre. We have a wonderful, caring Board that works together well. Our organization is in sound financial shape now, thanks to current support from our resident donors and grant awards. We have made strides in our financial management, with the hiring of a professional bookkeeper and also a first-class CPA for preparation of our tax returns, who both have experience with charities. A few years ago, we installed a GPS tracker in order to verify our work to a problem resident. This year we have replaced it with an even better tracker, a little cube that plugs directly into a diagnostic port in the feeder's car and downloads in real time to the web. We often must monitor feeding stations and use infrared motion activated game cameras. A year ago, superior ones became available that connect to WIFI and now the photos can be seen online without having to retrieve a flash drive from the camera.

The cat population has stayed close to last year's 322, with some cats lost and some new ones having been dumped. This is a 60% drop from 13 years ago when we began our work and is what can be achieved when all cats are spayed and neutered. An alarming change is the appearance of coyotes. They showed up in the far south end and recently one was sighted as far north as the Bath and Tennis Club. Cats are a food source for them, and we have lost 2 of the 3 cats at the Par Three Golf Course, 5 of the 6 at Phipps Ocean Park, 5 of the 6 at Beach Point and a mom and kittens from the Ambassador. Four coyotes are coming within 12' of our feeder. The only response we can come up with is to stop nighttime feeding at stations where we are met by these varmints and go to daytime feeding there, in hopes the coyotes will not come out in daylight. Nighttime feeding is best for us because cats are nocturnal, it is safer for the cats to bring them out when traffic is at a minimum and it also keeps our feeder from being harassed by residents, but at coyote plagued stations, nighttime feeding will no longer be possible. These coyotes are not timid, as evidenced by the south end resident who was hard pressed to save her little leashed dog from one. Please know that if they keep coming north and get

into the center of Town, they will turn into a big problem for our residents, who will be coming to you for answers.

Sadly, there has been a recent problem on Jamaica Lane. To refresh your memory, we trapped 46 cats there and returned 10, all of whom were microchipped, neutered and vaccinated. We moved their feeding station west so it would be farther from the complaining residents and thought all was well. Then 6 weeks ago cats started disappearing. So far 5 have gone missing and were likely killed by a resident. This is not only a shame but is animal cruelty and illegal.

You can see our challenges continue and please know that Palm Beach Island Cats will keep rising to meet them.

Thank you for your continued support. Our work would be impossible without it.

A handwritten signature in cursive script that reads "David Leavitt".

David Leavitt
President Palm Beach Island Cats

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Board/Commission Annual Report

Agenda Title

Annual Report of the Recreation Advisory Commission

Presenter

Nicholas Coniglio, Chair

ATTACHMENTS:

- ▣ **Annual Report of the Recreation Advisory Commission**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

To: Mayor and Town Council

Via: Kirk W. Blouin, Town Manager

From: Nicholas Coniglio, Recreation Advisory Commission Chairperson

Re: Recreation Advisory Commission Annual Presentation

Date: December 22, 2021

GENERAL INFORMATION

The contents of the annual Recreation Advisory Commission (RAC) report include:

Commission Membership/Meetings

COVID Response

Par 3 Golf Course

Tennis Operations

Morton and Barbara Mandel Recreation Center

Lake Trail/Seaview Avenue and Cocconut Row Intersection recommendation

Commission Membership/Meetings

The RAC is comprised of seven regular members. In January 2021 at the regular Town Council meeting, Ordinance No. 02-2021 was approved, eliminating the requirement for three alternate member positions (this was done through attrition), and providing for a seven member commission. This has worked out quite well, as there is no longer confusion among the members as to their voting and participation status. Each member serves a three-year term, with a chairperson and vice-chairperson selected as necessary. The Commission held four regular meetings in calendar year 2021 (February, May, September and December), all being held virtually, except December. The current Commission membership is as follows:

Commissioner	Position	Term Expires
Nicholas Coniglio	Chair	4/23
Grier Pressly	Vice-Chair	4/22
Peter Harris	Regular Member	4/23
Pamela McIver	Regular Member	4/22
Kristen Schonwald-Vila	Regular Member	4/23
Susan Watts	Regular Member	4/24

Leslie Wyrzes	Regular Member	4/22*
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*not eligible for re-appointment

Ms. Watts was the only new appointment to the Commission in 2021.

COVID-19 Response

Covid-19 continues to affect all operations of the Recreation Department. The Recreation Advisory Commission was kept abreast of the programmatic modifications required due to the pandemic. The impact was particularly felt at the Mandel Recreation Center with limitations on participation for indoor enrichment programs and Fitness Center attendance. Each division of the Recreation Department adapted or developed operational plans and procedures in order to offer recreational opportunities for residents as the regulations and recommendations evolved. Overall, the department performed exceedingly well and had record participation and/or revenue in several areas. Staff is committed to staying vigilant with best practices and communicating consistent messaging as well as modeling best practice behavior until the restrictions are further reduced or eliminated.

Par 3 Golf Course

The Par 3 Golf Course had a tremendous year with over 52,000 rounds of golf played during fiscal year 2021. This is 34% higher than our previous play high in FY2019. The popularity of golf lessons and clinics increased and patrons have consistently provided positive feedback concerning the quality of the lessons and the instructors.

Outstanding course conditions are a priority at the Par 3, and the members of the Commission have provided input on several aesthetic and practical applications put in use. Additionally, janitorial and clubhouse services remain of high importance and staff are constantly working to improve the experience for guests. Additional staff time has been required to keep the clubhouse in good shape with the increased traffic.

Course maintenance has been a huge priority with the increased play; we have continued the practice of closing the course on Tuesdays until 11:30 a.m. allowing grounds staff to work on the golf course. The greens were dryjected three times, which improves the health and extends the life of the turf as well as aerated the course twice.

Some notable improvements to the golf operations this year:

- A new fleet of carts were put into play in January 2021
- A new registration, tee sheet and POS service provider system, Club Caddie, was implemented resulting in over \$60,000 in direct revenue increase
- Extremely compact plug-and-play grow lights (assists the turf in repair and growth during the night)
- Sound system installed with music capabilities in the bathrooms, pro-shop, and north and south sides exterior of the clubhouse
- New cart path along #18 (Oceanside) provides a much more scenic path (and players note the wind generally works with you vs. against)

- The new website features include the ability to send e-mails to specific zip codes, so residents are offered reduced rates as well as preferred booking up to 30 days out
- The exterior of the clubhouses were painted
- Enhanced staff time to focus on custodial and light maintenance duties
- Concrete work was completed on the patio
- California Closets were installed in Pro-Shop storage closet, improving storage capabilities and greatly enhancing its appearance
- Maintenance offices were repainted inside and all new office furniture was acquired
- Staff painted the piping in the pump station along with replacing the manifold

In FY2021 the revenues were more than \$3.6M (including more than \$400K in pro-shop sales), \$1M more than projected, and we were awarded the South Florida PGA Merchandiser of the Year award due to the outstanding sales and excellent reviews.

The restaurant, al Fresco, at the Par 3, remains a favorite dining destination for residents and guests alike. With in-person dining permitted, al Fresco followed protocols and safety precautions allowing for steady business, which increased monthly. Town staff works closely with al Fresco staff to address any operational issues, which may come up. The popularity of the golf course and the restaurant continues to be a testament to outstanding service, which has become the hallmark of this remarkable facility.

The installation of beehives in 2020, on the left of tee box on 12, continues to be a huge hit! Native plants provide a buffer for them and a place for pollen distribution. The “Hole in One” honey is harvested and sold at the golf and tennis pro shops and the Mandel Recreation Center. It sells out very quickly and many have commented the quality of the honey has, according to the buyers, matured into a smooth and sweet flavor and is a favorite gift item.

Of special note was a feature on the popular You Tube channel Skratch, with an “Adventures in Golf” episode posted in September 2021. Host Erik Landers posted “World’s “Sweetest” Public Par-3 Course”, about his trip to the Par 3. It has garnered over 130,000 views and was a tremendous piece of positive earned marketing.

Seaview and Phipps Ocean Park Tennis Centers

The Town’s tennis resurgence continues. Since the courts re-opened in May of 2020 (with play restrictions at the time to singles only), tennis participation has increased with many residents continuing to either return to their love of tennis or discovering/rediscovers our high-quality courts. This continued into 2021. Resident play represented 72% of players, 67% of juniors and 85% of adults. The last year also saw the return of a few events, notably the Town of Palm Beach Championships - doubles, singles, and mixed doubles in January, February and April, respectively. In addition, a full slate of teams (six) are again representing the Town, including two senior league teams.

Revenue was at an all-time high in FY21. Revenue was up 44% from FY20, which had been the previous revenue record. Teaching revenue from the contract with DM Tennis Enterprises was up over 44% and merchandise sales up 38% from the previous year - both new revenue highs. Participants and residents continue to provide positive feedback about the quality and

professionalism of the instructor team, our pro-shop staff, and the excellent playability of the courts.

Player amenities and marketing efforts included upgrading the apparel at both tennis centers and adding televisions in each pro-shop, which run tennis announcements and promotions. Both pro-shops, while small, feel open and cheery with large windows providing natural light, quality merchandise, and helpful staff.

Daily court maintenance continued to be a priority for both in-house staff and contractors to keep the courts in excellent condition. With play up, our maintenance staff has been challenged, but has responded well and worked diligently to limit downtime. Projects of all sizes were completed at both tennis centers to enhance the playability and welcoming nature of the tennis centers, including:

- Staying on top of routine items to limit court downtime:
 - adding clay, replacing lines, net post maintenance, net repairs, windscreen maintenance, edges are being scraped and re-conditioned, gate repairs
- Irrigation enhancements
- Landscape beautification
- Replaced all the fence connectors at Phipps Ocean Park Tennis Center, which were rusting prematurely
- New tables and chairs at Phipps have been ordered
- Both centers have had their water fountains replaced, repaired and/or repainted
- New trash receptacles with a ball drop added for recycling at Seaview
- Both pro-shops received a refresh and expanded lines of apparel

A \$5k gift was received to offset the cost of junior tennis lessons to those in need as well as an additional \$5k gift for operational purposes for Seaview Park/MRC.

Morton and Barbara Mandel Recreation Center

RAC members and their families make regular use of the Mandel and amenities within Seaview Park. Practical suggestions, marketing assistance and general positive support all combined with staff efforts to create a very successful year for the Mandel.

The Mandel Recreation Center staff continues to follow a comprehensive strategy to ensure the well-being of patrons and staff through strict adherence to CDC and Town of Palm Beach guidelines and implementation of specific procedures for COVID-19 safety. Staff utilized two foggers, one electrostatic, to disinfect high touchpoint areas such as the fitness center and the After School Room. The disinfectant used is one recommended and used by Palm Beach Fire Rescue. While programming is still limited indoors, staff is working extremely hard to provide as many activities as possible while adhering to CDC and Town guidelines.

Even with program participation restricted due to Covid-19, revenue for the Mandel Recreation Center more than doubled from last fiscal year - up 144%, and the \$565,000+ represents an all-

time record for annual revenue. The Fitness Center sold 277 memberships (even with capacity restrictions throughout most of the fiscal year). The Mandel Recreation Center offered 252 programs, with resident adult participation at 95%, and youth at 50%. This past year featured the return of two popular youth programs. The ever-popular After School Program was able to build to a capacity of 30 participants and over the summer, Camp Palm Beach welcomed 65 kids per week.

The Mandel continued to enhance its virtual presence to keep the community engaged, with the well-known RecConnect hitting inboxes at least once a week to keep everyone informed of the schedule around the Mandel and the rest of the Recreation Department along with the popular boredom busters, brainteasers and recipes. The department also greatly increased presence through social media, which has proven to be a great way to engage with the community. There are now almost 1,500 followers on Instagram, so be sure to follow townofpalmbeachrecreation on Instagram and/or Palm Beach Recreation Department on Facebook.

In collaboration with the Palm Beach Civic Association, a weekly, limited edition “WOW” (Word on Wellness) series was produced on PBTv. The segment focused on health tips and wellness information. This collaboration continued with their new PBCivicSpot, a one-stop web portal, for everything Palm Beach, which is a great way to let more residents know about all the programs and opportunities the Recreation Department has to offer.

Two multi-generational events, and Town traditions, the annual Spring Celebration and Halloween Happenings, returned this year. Both events were resident only and by reservation. Many residents noted they were very happy with the return of these family events and even described it as “like coming home!”

Some additional highlights from 2021:

- Popularity of Perseverance Basketball is still through the roof – the leagues, skills academies, little hoopsters, private training, and group training have been a great addition for the community and a boost to revenue
- Select Soccer continues to have great participation and is well set for future growth
- T-ball and baseball clinics were offered last spring
- Lacrosse, flag football, volleyball, adult basketball, Story Time Soccer all continued to have solid and increasing participation
- Enrichment programs, although somewhat limited, had enthusiastic participation for youth and adult in programs: movin’ and groovin’, mix-it-up art, karate, toddler social for youth and adult enrichment such as language arts, mah-jongg, yoga, wellness/exercise classes, to name a few
- Hosted the first ever Wiffle Ball homerun derby to benefit the United Way
- A \$10k gift from Friends of Recreation to cover up to \$500 for each employee who registered their child for a week of summer camp, which was well received and fully exhausted
- Staff worked with Friends of Recreation and the Preservation Foundation to refresh the garden area at the main entrance of the Mandel Recreation Center – it will serve as an educational garden with all native plantings

- Staff held a Family Fun night on September 10, for the After School Program families with a variety of games and activities. The evening was so well received staff plan to make this an ongoing event with different activities each meeting.

Lake Trail/Seaview Avenue and Cocoanut Row

The Commission, led by its Chair and Vice Chair, expressed concerns about the connection from the Lake Trail to Seaview Ave. and suggested putting up signage so residents and visitors know where the Mandel Recreation Center and Seaview Park and its amenities are located.

An even greater concern was brought up regarding the pedestrian safety of the intersection of Cocoanut Row and Seaview Avenue. The full Commission was in support of providing for enhanced safety measures for pedestrians such as a flashing crosswalk or even a stop light to ease the concerns of pedestrian and vehicle interactions in that area. The crosswalk is utilized by a large number of children as well as visitors to Seaview Park. A motion to bring this to the Town Council's attention passed unanimously in the hopes of making this intersection safer for residents and visitors.

Conclusion

Overall, the members of the RAC, in conjunction with the Department, had a very productive year and are looking forward to an exciting 2022. We continue to implement and plan many exciting opportunities for residents and visitors despite any challenges that are thrown our way. The RAC and Department staff are optimistic about the future and ready to capitalize on any opportunities which come our way. We are dedicated to our role of providing feedback and assistance in any way necessary, as the Department plans for an exciting and successful future.

cc: Recreation Advisory Commission
Carolyn Stone, Assistant Town Manager
Mark Bresnahan, Director of Recreation
Rod Gardiner, Assistant Director of Recreation
Tony Chateauvert, Golf Manager
Michelle Pallante, Administrative Assistant

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Committee Reports

Agenda Title

Report of the Business and Administrative Committee Meeting Held on December 8, 2021

Lew Crampton, Chair

1 . Proposed Conversion of Twelve (12) 2-Hour Parking Spaces on the 200/300 Block of Worth Avenue to 30-Minute Parking Spaces

Jay Boodheshwar, Deputy Town Manager

Presenter

ATTACHMENTS:

- ▣ **December 8, 2021, Business and Administrative Committee Meeting Report**
- ▣ **Memorandum Dated December 29, 2021 From Jay Boodheshwar, Deputy Town Manager**
- ▣ **Worth Avenue Parking Map**



TOWN OF PALM BEACH

Town Clerk's Office

REPORT OF THE BUSINESS AND ADMINISTRATIVE COMMITTEE MEETING HELD ON DECEMBER 8, 2021

I. CALL TO ORDER AND ROLL CALL

The Business and Administrative Committee Meeting was called to order at 9:30 a.m. On roll call, all committee members were found to be present.

II. PLEDGE OF ALLEGIANCE

Chair Crampton led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion was made by Member Lindsay and seconded by Chair Crampton to approve the agenda. On roll call the Motion passed unanimously.

IV. COMMUNICATIONS FROM CITIZENS

There were none.

V. REGULAR AGENDA

A. Old Business

1. Proposed Expansion of 30-Minute Free Parking on Worth Avenue
Jay Boodheshwar, Deputy Town Manager

Chair Crampton noted that there have been several discussions regarding this item and stated that the Committee was not the final authority on any action to be taken as that will be left to the Town Council.

Jay Boodheshwar, Deputy Town Manager, announced that the meeting was being live-streamed via Granicus and the public, using a computer, are able to view any presentations on the screen but would not be able to participate.

Mr. Boodheshwar gave an overview of past discussions regarding this issue including beachgoers and employees parking on the street. He spoke regarding decisions made based on data and reported that for about two (2) months, activity

on the ocean blocks (Worth, Australian, Brazilian, Chilean, Hammon and Peruvian Avenues) that a small number of two-hour free parking spaces on the far eastern end of these blocks were converted to paid parking with no kiosks, only ParkMobil. This has resulted in increased turnover and revenue. There were 16 two-hour free spaces on Worth Avenue which have been converted to paid parking, ParkMobil only, and four two-hour spaces that were converted to 30-minute free parking which are available for quick transactions. This has resulted in great success as there is quick turnover and \$12K in revenue, purely ParkMobil. In October, about 60% of parking transactions were via ParkMobil. The projections for the year for these 16 spaces will be about \$70K in revenue and the other spaces (100 block of Worth Ave) are projected to generate about \$200K for the year.

Regarding Worth Avenue, Mr. Boodheshwar reported that visitors needing to make quick transactions could not find a space for that purpose. After speaking with merchants who were receptive to the idea, it was suggested that 12 spaces (6 on each of 100 and 200 blocks) would be converted from two-hour free parking to 30-minute free parking. This would provide turnover and dis-incentivize employees from parking on the street.

Member Lindsay questioned why all the 30-minute free spaces were placed on the 100 block vs. being distributed on the 100 and 200 blocks. Mr. Boodheshwar explained that the spaces were clustered on both the 100 and 200 blocks to make it easier for signage, enforcement and the customers using the spaces.

Chair Crampton reiterated that there were three (3) goals regarding the Committee's focus on parking which were residents' convenience, commercial flow and revenue.

Public Comment

Kiwi Hilliard, 325 S. Lake Drive inquired if an ordinance could be passed prohibiting employees from parking on Worth Avenue.

Chair Crampton responded that would be very difficult to enforce as there would be no way differentiate employees from non-employees.

Motion was made by Member Lindsay and seconded by Chair Crampton to accept staff's recommendation to expand the 30-minute free parking to the 200 and 300 blocks of Worth Avenue. On roll call, the Motion passed unanimously.

B. New Business

1. Proposed Modifications to Residential Permit Parking Expiration Date
Amy Wood, Assistant Finance Director

Mr. Boodheshwar explained that this Committee has been focusing on the

commercial and quasi-commercial parking districts in Town so this item will be included in the overall parking discussions as changes to the residential parking permit plans, namely the Gainesville and Arlington plans will have to be changes to the Ordinance.

Amy Wood, Assistant Director of Finance explained that the two (2) residential parking permit programs, the Gainesville and Arlington Plans, expired at different times. One expires at the end of the fiscal year, September 30 and the other expires at the end of the calendar year, December 31. She explained that having both expire on December 31st would be beneficial to the seasonal nature of the residents who are mostly back in Town by December 31st. Also for staff, it is more convenient to be processing all requests at the same time of the year and would provide for a two-month renewal period instead of the current one month.

The Committee agreed that this change would make it more consistent and convenient for the residents.

Motion was made by Chair Crampton and seconded by Member Lindsay to change the expiration date for the Gainesville RPP Plan to be the same as for the Arlington RPP Plan. On roll call, the Motion passed unanimously.

2. Discussion Regarding Marina-Related Parking and Plans to Minimize the Potential of Adverse Impacts to Adjacent 400 Block Streets
Jay Boodheshwar, Deputy Town Manager

Chair Crampton made comments regarding the new marina operations, the improved park and traffic situation. He mentioned that there was some confusion regarding residential parking and inconsistent signage.

Member Lindsay spoke regarding the inconsistencies with the parking regulations in the area.

Mr. Boodheshwar gave a brief summary of the pre and post construction parking issues. He mentioned that post construction, the footprint of the parking lots remain the same and there are now less parking spaces on the west side of the street due to the creation of landscape islands. He gave an overview of the different parking regulations on the street, namely: free, marina only and placard parking. Responding to Chair Crampton, Mr. Boodheshwar stated that the number of residential permit parking spaces did not change as follows: 400 block of Brazilian - 19, 400 block of Australian - 21, 400 block of Chilean - 17, 400 block of Peruvian - 43 and east side of S. Lake Drive - 26 spaces.

The committee suggested that the residents work together to set out their requests regarding the parking situation to the Committee so a plan can be created which is favorable to most residents.

Mr. Booheshwar stated that there were some actions that could be taken sooner rather than later and reminded all that there were certain laws and regulations that still had to be followed.

Public Comment

Gordon McCoun, 434 Chilean Avenue suggested having more discussion with the residents with a view to long-term planning regarding the parking issues.

Kiwi Hilliard, 325 S. Lake Drive stated there were issues with the residential parking for her building and would like the consolidation of the RPP areas be removed from consideration.

Chair Crampton stated that both residents and staff should work together to come to a favorable solution for all.

VI. ANY OTHER MATTERS

Mr. Boodheshwar stated that if there were oversized vehicles in certain spaces, residents should call the Police. He also stated that car carriers were no longer permitted on S. Lake Drive and that this will be the last season car carriers will be allowed on Chilean Avenue as an alternate area.

VII. ADJOURNMENT

Motion was made by Member Lindsay and seconded by Chair Crampton to adjourn the Business and Administrative Committee Meeting of December 8, 2021 at 10:36 a.m. On roll call the Motion passed unanimously.

APPROVED:

Lew Crampton, Chair

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

Date

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Proposed Conversion of Twelve 2-Hour Parking Spaces on the 200/300 Blocks of Worth Avenue to 30-Minute Parking

Date: December 29, 2021

STAFF RECOMMENDATION

Staff recommends the Town Council approve the proposed conversion of twelve (12) 2-hour free parking spaces on the 200 and 300 blocks of Worth Avenue to 30-minute free parking, as recommended by the Business and Administrative Committee (BAC).

GENERAL INFORMATION

At the October 7, 2021, BAC meeting, staff reported on the initial success observed with the conversion of sixteen (16) 2-hour free spaces on the 100 block of Worth Avenue to paid parking, along with the conversion of four (4) 2-hour free spaces to 30-minute free spaces. This led to a discussion regarding the potential conversion of additional 2-hour spaces on the 200 and 300 blocks of Worth Avenue to 30-minute free spaces to promote quicker turnover and better accommodate shoppers seeking short-term parking. The committee was receptive to converting six (6) spaces on each block and asked staff to reach out to property owners on these blocks for feedback, which staff did. The proposed changes outlined on the attached map were presented to the BAC at their December 8, 2021, meeting and unanimously recommended for approval.

Staff, Worth Avenue property owners, and the BAC believe the conversion of the identified 2-hour spaces to 30-minute spaces will aid in space availability for quick consumer transactions, reduce traffic congestion, and reduce the availability of long-term parking that has been routinely used by employees for the benefit of customers instead.

Attachment

cc: Parking Committee

WORTH AVENUE

100 BLOCK



CURRENT

North Side: Paid parking @ \$6/hr (9 spaces); 2-hour (5 spaces); 30-minute (4 spaces); Loading zone (2 spaces)

South Side: Paid parking @ \$6/hr (7 spaces); 2-hour (20 spaces); Loading zone (1 space)

PROPOSED

North Side: No changes

South Side: No changes

200 BLOCK



CURRENT

North Side: 2-hour (23 spaces); Loading zone (1 space)

South Side: 2-hour (22 spaces); Loading zone (2 spaces)

PROPOSED

North Side: Convert six (6) 2-hour free parking to 30-minute free parking. See highlighted spaces above

South Side: No changes

300 BLOCK



CURRENT

North Side: 2-hour (24 spaces)

South Side: 2-hour (18 spaces); Loading zone (2 spaces)

PROPOSED

North Side: Convert six (6) 2-hour free parking to 30-minute free parking. See highlighted spaces above

South Side: No changes

400 BLOCK



CURRENT

North Side: 2-hour (8 spaces); RPP (10 spaces)

South Side: No parking

PROPOSED

North Side: No changes

South Side: no changes

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Regular Agenda - Old Business

Agenda Title

COVID-19 Situation Update

Kirk W. Blouin, Town Manager

a. COVID-19 Monthly Report

Darrel Donatto, Fire Rescue Chief

b. RESOLUTION NO. 010-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Concurring with the Request of the Town's Chief of Police, to Extend the Chief's Declaration of the Existence of a State of Emergency within the Corporate Limits of the Town to February 8, 2022, Unless Earlier Terminated by the Chief of Police, at which time the Town Council will Address the Need for any Extension of the Declaration of Emergency; Providing for an Effective Date.

Presenter

ATTACHMENTS:

▣ **b. Resolution No. 010-2022**

RESOLUTION NO. 010-2022

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, CONCURRING WITH THE REQUEST OF THE TOWN'S CHIEF OF POLICE, TO EXTEND THE CHIEF'S DECLARATION OF THE EXISTENCE OF A STATE OF EMERGENCY WITHIN THE CORPORATE LIMITS OF THE TOWN TO FEBRUARY 8, 2022, UNLESS EARLIER TERMINATED BY THE CHIEF OF POLICE, AT WHICH TIME THE TOWN COUNCIL WILL ADDRESS THE NEED FOR ANY EXTENSION OF THE DECLARATION OF EMERGENCY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, 2019 Novel Coronavirus Disease (COVID-19) is a severe, acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza; and

WHEREAS, the World Health Organization (WHO) has declared a pandemic related to COVID-19; and

WHEREAS, the Center for Disease Control and Prevention (CDC) has declared the potential public health threat posed by COVID-19 as "high", both in the United States and throughout the world; and

WHEREAS, on March 1, 2020, Governor Ron DeSantis issued Executive Order 20-51, declaring that appropriate measures to control the spread of COVID-19 in the State of Florida are necessary, and therefore directed that a Public Health Emergency be declared in the State of Florida; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52, declaring a State of Emergency in the State of Florida regarding the COVID-19 pandemic; and

WHEREAS, the President of the United States has declared a State of Emergency for the Country to address the public health threat to the United States of America as a result of COVID-19; and

WHEREAS, a threat of impact from COVID-19 exists throughout the corporate limits of the Town of Palm Beach and elsewhere; and

WHEREAS, COVID-19 poses a danger to life and the economic well-being of Palm Beach residents; and

WHEREAS, the Chief of Police of the Town of Palm Beach exercised his authority in March 2020, to declare a state of emergency in response to the threats associated with the Coronavirus pandemic.

WHEREAS, the Town Council approved Resolution No. 21-2020 on March 19, 2020, concurring with the extension of the declaration of emergency, and approved multiple subsequent resolutions in 2020 and 2021 to extend the Chief's declaration of emergency in response to the ongoing threats related to the Coronavirus pandemic.

WHEREAS, the Chief of Police of the Town of Palm Beach, pursuant to the authority of Section 58-41 of the Town Code of Ordinances, has again declared a state of emergency exists within the corporate boundaries of the Town; and

WHEREAS Florida Statute Section 870.042 provides that the designated official, in this case the Chief of Police, has the authority to exercise the emergency powers conferred in Sections 870.041 through 870.047 of the Florida Statutes; and

WHEREAS, Section 870.047, Florida Statutes, provides for the duration and termination of a State of Emergency and provides that the emergency declaration shall terminate at the end of the period of seventy-two (72) consecutive hours unless prior to the end of the seventy-two (72) hour period, the declaration of emergency has been terminated; and

WHEREAS, any extension of the seventy-two (72) hour time limit must be accomplished by request from the public official and the concurrence of the Town Council by duly enacted resolution in regular or special session; and

WHEREAS, the Town Council approved Resolution No. 009-2022 on January 3, 2022, granting the Chief of Police's request that the declaration of emergency be extended to January 11, 2022; and

WHEREAS, the Chief of Police has requested that the time limit for the declaration of emergency be extended to February 8, 2022, unless earlier terminated by the Chief of Police.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY FLORIDA, AS FOLLOWS:

Section 1. The request of the Chief of Police to extend the time period for the declaration of emergency is hereby granted.

Section 2. The declaration of emergency shall remain in effect until February 8, 2022, unless earlier terminated by the Chief of Police, at which time the Town Council will address the need for any extension of the declaration of the emergency.

Section 3. During this period of time, the Chief of Police has the authority to extend or amend any of the emergency measures declared in the initial declaration of emergency as provided by the terms of Florida Statute Section 870.045.

Section 4. This resolution shall take effect upon execution. A copy of this Resolution shall be filed in the office of the Town Clerk and delivered to the appropriate news media and by posting on the Town's website.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 11th day of January, 2022.

Danielle H. Moore, Mayor

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Town-wide Undergrounding Project

H. Paul Brazil, P.E., Director of Public Works

a. Review of Project and Dashboard, Summary of Project Status

b. RESOLUTION NO. 006-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Modification No. 1 to State Grant of Florida Division of Emergency Management Contract No. H0374, Between the State of Florida Division of Emergency Management and the Town of Palm Beach Under the FEMA Disaster Declaration No. 4337 for Hurricane Irma, Specifically Reimbursement for Utility Protection Measures Within the Town Utility Undergrounding Project in the Modified Amount of \$8,062,242.74, Authorizing the Town Manager to Execute Same on Behalf of the Town, and Authorizing the Town Manager to Execute Future Modifications on Behalf of the Town.

Presenter

ATTACHMENTS:

- ▣ **a. Review of Project and Dashboard, Summary of Project Status**
- ▣ **b. Memorandum Dated December 10, 2021, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **b. Resolution No.006-2022**
- ▣ **b. Modification to Subgrant Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

TO: Mayor & Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Paul Brazil, Public Works Director

FROM: Patricia Strayer, Town Engineer

RE: Utility Undergrounding Project Status Report

DATE: December 20, 2021

I. COMMUNICATIONS:

A. Community Meetings:

Coffee with the Crew meetings are for Phases 4 and 5 South will occur January 10 at the Town Hall park. The meetings for Phases 4 and 5 North will begin in February and take place at Palmo Park on the first Monday of the month.

B. Significant Postal Mail or E-mail

A letter was sent to all property owners in Phase 7 North requesting meetings to discuss easement acquisition. Letters for Phase 7 South are being mailed in January. Staff continues to have easement meetings with property owners primarily focused on Phase 6 North and South.

II. PROGRESS SUMMARY:

Overall, Town-wide Construction Progress, ten (10) of fifteen (15) construction zones are either complete or in progress/funded for construction, inclusive of Phases 1N, 1S, 2N, 2S, 3N, 3S, 4N, 4S, 5N and 5S. Phase 6 North and South will be put out for bids by February.

A. Construction Progress:

Phase 1 North:

From the Inlet south to Onondaga Ave.

- Completed March 30, 2019

Phase 1 South:

From southern Town limits north to Sloan's Curve

- Completed April 3, 2020

Phase 2 North Construction:

From Esplanade Way to Ocean Terrace

- Completed October 29, 2020

Phase 2 South Construction:

From Sloan's Curve to the intersection of S. Ocean Blvd & S. County Road

- Phase 2 South, the project is 82% complete. Presently working with FPL to begin conversions.

Phase 3 North Construction:

From Osceola Way to the north-side of La Puerta Way

- Complete September 17, 2021

Phase 3 South:

From S. Ocean Blvd & S. County Road to the alleyway south of Worth Ave.

- Phase 3 South construction is 34% complete.

Phase 4 North:

From south-side of La Puerta Way to north-side of List Road

- Construction for Phase 4 North is 64% complete.

Phase 4 South:

From Peruvian Ave. north to Royal Palm Way & the Town Docks

- Design is 99% complete.
- 61 of 62 easements are recorded or verbally approved.
- Contract awarded August 10.
- Delivery of materials has been delayed. Actual construction is expected to start in January.

Phase 5 North:

From Country Club Road to Southland Road

- Design is 100% complete.
- 87 out of 87 (100%) easements are recorded or verbally approved.
- Notice to Proceed was issued September 27, 2021.
- Delivery of materials has been delayed. Actual construction is expected to start in January.

Phase 5 South:

From South Lake Drive/Hibiscus Ave. & Peruvian Ave./Royal Palm Way, properties between the intracoastal waterway and the Atlantic Ocean and from Royal Palm Way to Seaspray Ave.

- Design is 99% complete.
- 76 of 81 (94%) easements are recorded or verbally approved.
- Notice to Proceed was issued September 27, 2021.
- Delivery of materials has been delayed. Actual construction is expected to start in January.

Phase 6 North:

From Chateaux Drive & Kawama Lane to the south-side of Plantation Road

- Design is 74% complete and on schedule.
- 39 of 48 (81%) easements approved.

Phase 6 South:

Seaspray Ave. to the south of Royal Poinciana Way

- Design is 61% complete and on schedule.
- 43 of 97 (44%) easements approved.

Phase 7 North:

Palm Beach Country Club north to the south side of List Road

- Design is 36% complete and on schedule.
- 8 of 83 (10%) easements approved.

Phase 7 South:

Atlantic Ave. north to Via Los Incas & Sanford Ave.

- Design is 33% complete and on schedule.
- Easement acquisition has not begun.

Phase 8:

Royal Poinciana Way north to Everglade Ave.

- Design is 21% complete and on schedule.
- Easement acquisition has not started.

III. FINANCIAL SUMMARY:

A. FEMA Grant Update:

- FEMA/FDEM approved contracts for CR Dunn and Wilco for construction.
- Requested an update on the status of the requested (and approved) grant modification but still have not received a response from FEMA/FDEM.

B. Project Budget Summary:

There are no significant changes since the last report. Updates include processing of vendor pay applications for design and work performed in active phases. The full Underground Utility Project Financial Report is provided within your backup package with the summary page attached.

cc: Jane LeClainche, Finance Director
Kevin Schanen, Kimley-Horn & Associates

**Underground Utility Project Budget
Project Financial Summary
December 31, 2021**

Expenditures	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 1	\$ 12,620,000	\$ 12,910,000	\$ 12,856,262	\$ 12,734,604	99.1%
Phase 2	\$ 9,170,000	\$ 13,470,000	\$ 12,882,271	\$ 10,290,053	79.9%
Phase 3	\$ 10,910,000	\$ 15,400,000	\$ 16,252,921	\$ 8,197,267	50.4%
Phase 4	\$ 10,370,000	\$ 15,220,000	\$ 17,498,848	\$ 6,039,750	34.5%
Phase 5 (Includes \$8.5 Million FEMA Grant Offset)	\$ 14,090,000	\$ 11,694,645	\$ 17,935,288	\$ 2,168,052	12.1%
Phase 6	\$ 16,820,000	\$ 20,800,000	\$ 1,954,334	\$ 1,058,376	54.2%
Phase 7	\$ 11,730,000	\$ 15,910,000	\$ 1,619,090	\$ 412,869	25.5%
Phase 8	\$ 12,300,000	\$ 14,500,000	\$ 1,391,803	\$ 311,757	22.4%
Total Project Costs To Date	\$ 98,010,000	\$ 119,904,645	\$ 82,390,818	\$ 41,212,728	50.0%
Other Costs Associated Directly with the Project (Page 8)	\$ 570,000	\$ 2,513,512	\$ 2,513,512	\$ 2,385,030	94.9%
Grand Total of Costs Related to Project	\$ 98,580,000	\$ 122,418,157	\$ 84,904,330	\$ 43,597,759	51.3%
Debt Service and Related Debt Issuance Costs (Page 8)			\$ 14,543,157	\$ 11,781,724	81.0%
Total Other Costs Outside Underground Budget (Page 8)			\$ 664,169	\$ 1,639,342	246.8%
Grand Total of All Costs Related to the Project	\$ 98,580,000	\$ 122,418,157	\$ 85,568,499	\$ 57,018,824	66.6%

Total Project Budget - Opinion of cost for construction	\$ 122,418,157
% Budgeted/Encumbered To Date Project Costs	69.36%
% Spent to Date - Project Costs	35.61%

Project Revenues Received

Revenues	Budget	Actual	% of Budget
Revenues			
Prepaid Assessments	\$ -	\$ 18,329,914	0.0%
Assessment Revenue	\$ 21,430,000	\$ 20,399,557	95.2%
Commercial Paper	\$ -	\$ -	0.0%
Town Owned Property Prepaid Assessments	\$ 2,797,291	\$ 2,797,291	100.0%
Interest on Assessment Escrow	\$ -	\$ -	0.0%
Interest	\$ 1,567,009	\$ 3,096,582	197.6%
GO Bond Proceeds 2018	\$ 60,500,000	\$ 60,499,897	100.0%
GO Bond Proceeds 2021	\$ 9,198,896	\$ 9,198,896	100.0%
1 Cent Sales Tax	\$ 5,000,000	\$ 2,625,000	52.5%
FPL		\$ 450,246	0.0%
FEMA Grant	\$ 8,500,000	\$ -	0.0%
Other			
Kevin McGann - CO #9	\$ -	\$ 34,900	0.0%
Donations - Civic Association	\$ 49,250	\$ 49,250	100.0%
Transfer from (307) Fund CIP	\$ 760,200	\$ 760,200	100.0%
Transfer from (401) Fund Marina	\$ 2,600,000	\$ 650,000	
Transfer from (001) General Fund - PM Salary	\$ 751,000	\$ 885,628	117.9%
Total Project Revenues	\$ 113,153,646	\$ 119,777,362	105.9%

Underground Utility Project Budget
Phase 1 Project Costs
December 31, 2021

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Project Engineering					
Task 2.1 - Detailed Design North End	590,000		472,063	472,063	100.0%
Task 2.2 - Detailed Design South End	740,000		619,411	619,411	100.0%
Task 2.3 - Permitting Assistance			17,790	17,790	100.0%
Task 2.4 - Bid Phase Assistance			42,166	42,166	100.0%
Task 2.5 - Meetings - Design Phase			125,399	125,383	100.0%
Subtotal Design Phase	\$ 1,330,000	\$ 1,280,000	\$ 1,276,829	\$ 1,276,813	100.0%
Construction Costs					
Phase 1 North Construction					
Preconstruction			\$ 19,720	19,720	100.0%
Burkhardt Construction			\$ 3,598,144	3,598,144	100.0%
Street Light Conversion			\$ 26,273	40,934	155.8%
Change Order for AT&T and Comcast Conduit			\$ 500,655	491,883	98.2%
Utility Design Costs			\$ 15,595	16,945	108.7%
Utility Construction Costs (FPL, Comcast, AT&T)			\$ 476,776	392,932	82.4%
Construction Engineering (KH)			\$ 207,771	205,818	99.1%
	\$ 4,210,000	\$ 4,930,000	\$ 4,844,935	\$ 4,766,377	98.4%
Phase 1 South Construction					
Preconstruction			\$ 22,200	22,200	100.0%
Whiting Turner Construction			\$ 4,450,977	4,450,977	100.0%
Change Order for AT&T and Comcast Conduit			\$ 125,147	125,147	100.0%
Street Light Conversion			\$ 68,115	68,115	100.0%
Utility Design Costs			\$ 33,013	44,958	136.2%
Utility Construction Costs (FPL, Comcast, AT&T)			\$ 1,374,193	1,317,824	95.9%
Construction Engineering (KH)			\$ 316,498	316,396	100.0%
	\$ 6,800,000	\$ 6,350,000	\$ 6,390,143	\$ 6,345,618	99.3%
Easement Recording Fees			\$ 740	740	100.0%
Legal Costs/Easement Acquisition - Jones Foster	\$ 280,000	\$ 350,000	\$ 301,359	\$ 306,723	101.8%
Legal Sketch and Description - Easements			34,000	33,215	97.7%
Easement Abandonment			\$ 8,256	5,120	62.0%
Legal Advertising				1,861	
Total Phase 1 Costs	\$ 12,620,000	\$ 12,910,000	\$ 12,856,262	\$ 12,734,604	99.1%

Underground Utility Project Budget
Phase 2 Project Costs
December 31, 2021

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 2 Design					
Kimley Horn					
Task 1.1 Phase 2 North Design	335,000		\$ 281,304	\$ 281,304	100.0%
Task 1.2 Phase 2 South Design	400,000		\$ 335,353	\$ 335,353	100.0%
Task 1.3 Permitting Assistance North and South			\$ 12,674	\$ 12,674	100.0%
Task 1.4 Bid Phase Assistance North and South			\$ 40,565	\$ 40,565	100.0%
Task 1.6 Meetings North and South			\$ 136,617	\$ 131,510	96.3%
Total Phase 2 Design	\$ 735,000	\$ 807,000	\$ 806,513	\$ 801,406	99.4%
Construction Costs					
Phase 2 North Construction					
Preconstruction			\$ 35,000	31,970	91.3%
Burkhardt Construction			\$ 3,932,792	3,905,978	99.3%
Owner Purchased Supplies			\$ 83,073	205,809	247.7%
FPL Design Cost			\$ 11,759	65,822	559.8%
ATT Design Cost			\$ 5,000	\$ 5,000	100.0%
Comcast Design Cost				\$ 4,582	
Utility Costs (FPL, Comcast, AT&T)			\$ 496,307	\$ 423,898	85.4%
FPL - Additional Vista Switches				\$ 54,938	
Street Light Conversion			\$ 19,186	\$ 19,186	100.0%
Construction Engineering (KH)			\$ 248,121	\$ 246,227	99.2%
Total Phase 2 North Construction	3,800,000	5,020,000	\$ 4,831,238	\$ 4,963,409	102.7%
Phase 2 South Construction	-				
Preconstruction			\$ 35,000	88,167	251.9%
Burkhardt Construction			\$ 6,322,275	3,599,997	56.9%
Owner Supplied Materials			\$ 172,321	175,898	102.1%
FPL Design Cost			\$ 13,330	16,900	126.8%
ATT Design Cost			\$ 5,000	\$ 5,000	100.0%
Comcast Design Cost			\$ 5,000	\$ 4,582	91.6%
Utility Costs (FPL, Comcast, AT&T)			\$ 200,000	\$ 123,948	62.0%
Street Light Conversion			\$ 20,000	\$ 19,268	96.3%
Reimburse John Moran				\$ 39,240	
Construction Engineering (KH)	-		\$ 282,973	\$ 264,674	93.5%
Total Phase 2 South Construction	4,435,000	7,424,000	\$ 7,055,899	\$ 4,337,673	61.5%
Easement Acquisition/Abandonment	200,000	219,000			
<i>Kimley Horn Easement Assistance</i>					
Task 1.5 Easement Assistance North			\$ 64,936	\$ 64,935	100.0%
Task 1.5 Easement Assistance South			\$ 77,466	\$ 77,467	100.0%
<i>Surveys</i>					
Task 1.7 Legal Sketch North			\$ 14,020	\$ 14,020	100.0%
Task 1.7 Legal Sketch South			\$ 21,725	\$ 20,689	95.2%
Advertising				\$ 1,101	
Recording Costs			\$ 3,605	\$ 3,359	93.2%
Easement Abandonment			\$ 6,870	\$ 5,994	87.2%
Total Easement Acquisition Costs	200,000	219,000	\$ 188,622	\$ 187,564	99.4%
Total Phase 2 Costs	\$9,170,000	\$13,470,000	\$ 12,882,271	\$ 10,290,053	79.9%

Underground Utility Project Budget
Phase 3 Project Costs
December 31, 2021

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 3 Design					
Kimley Horn					
Task 1.1 Phase 3 North Design	\$ 325,000		\$ 280,189	\$ 280,189	100.0%
Task 1.2 Phase 3 South Design	\$ 535,000		\$ 486,333	\$ 486,323	100.0%
Task 1.3 Permitting Assistance			\$ 13,739	\$ 13,739	100.0%
Task 1.4 Bid Phase Assistance			\$ 36,834	\$ 36,834	100.0%
Task 1.5 Meetings			\$ 77,411	\$ 76,626	99.0%
Total Phase 3 Design	\$ 860,000	\$ 895,000	\$ 894,505	\$ 893,710	99.9%
Construction Costs					
Phase 3 North Construction	\$ 3,700,000	\$ 5,300,000			
Preconstruction			\$ 24,580	\$ 24,580	100.0%
Construction - Burkhardt			\$ 4,100,697	\$ 4,100,697	100.0%
Owner supplied materials				\$ 2,797	
FPL Design Cost			\$ 12,850	\$ 1,350	10.5%
ATT Design Cost			\$ 5,000	\$ 5,000	100.0%
Comcast Design Cost			\$ 3,128	\$ 3,128	100.0%
FPL Construction			\$ 87,101	\$ 87,101	100.0%
Street Light Conversion			\$ 4,249	\$ 7,012	165.0%
Utility Costs (Comcast & ATT)			\$ 409,387	\$ 409,387	100.0%
Construction Engineering (KH)			\$ 236,976	\$ 222,922	94.1%
Daniella Construction - Nightingale/LaPuerta - Townwide portion			\$ 457,222	\$ 457,222	100.0%
FPL Nightingale/LaPuerta - Townwide Portion			\$ 85,796	\$ 85,796	100.0%
Comcast Nightingale/LaPuerta - Townwide Portion			\$ 8,885	\$ 8,885	100.0%
AT&T Nightingale/LaPuerta Townwide Portion			\$ 30,555	\$ 30,555	100.0%
Billing for Arnold Fisher relocate transformer Deanna Davis and Cohlan			\$ (17,647)	(17,647)	100.0%
Total Phase 3 North Construction	\$ 3,700,000	\$ 5,300,000	\$ 5,448,779	\$ 5,428,785	99.6%
Phase 3 South Construction	\$ 6,090,000	\$ 8,875,000			
Preconstruction			\$ 33,400	33,400	
Construction			\$ 8,029,385	694,177	8.6%
Owner supplied Pipe				118,315	
FPL Construction			\$ 562,000	562,905	100.2%
FPL Design Cost			\$ 11,359	15,808	139.2%
FPL - 101 El Brillo				10,875	
J Box Installation				14,636	
ATT Design and Construction Cost			\$ 425,000	5,000	1.2%
Comcast Design and Construction Cost			\$ 195,128	3,128	1.6%
Construction Engineering (KH)			\$ 322,540	83,427	25.9%
Total Phase 3 South Construction	\$ 6,090,000	\$ 8,875,000	\$ 9,578,812	\$ 1,541,671	16.1%
Easement Acquisition/Abandonment	\$ 260,000	\$ 330,000			
<i>Kimley Horn Easement Assistance</i>					
Task 1 Easement Assistance North and South			\$ 273,390	\$ 271,663	99.4%
Easement Amendment			\$ 49,285	\$ 49,198	99.8%
<i>Surveys</i>					
Recording Costs				\$ 5,067	
Easement Abandonment			\$ 8,150	\$ 7,172	
Total Easement Acquisition Costs	\$ 260,000	\$ 330,000	\$ 330,825	\$ 333,102	100.7%
Total Phase 3 Costs	\$10,910,000	\$15,400,000	\$ 16,252,921	\$ 8,197,267	50.4%

Underground Utility Project Budget
Phase 4 Project Costs
December 31, 2021

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 4 Design					
Kimley Horn					
Task 1.1 Phase 4 North Design	\$ 402,000		\$ 312,317	312,317	100.0%
Task 1.2 Phase 4 South Design	\$ 413,000		\$ 451,284	451,284	100.0%
Task 1.3 Permitting Assistance			\$ 14,468	14,468	100.0%
Task 1.4 Bid Phase Assistance			\$ 37,899	37,899	100.0%
Task 1.6 Meetings			\$ 77,911	77,383	99.3%
Total Phase 4 Design	\$ 815,000	\$ 894,000	\$ 893,879	893,351	99.9%
Construction Costs					
Phase 4 North Construction	4,605,000	6,275,000			
Preconstruction			\$ 22,270	22,270	100.0%
Construction Costs			\$ 5,043,010	2,792,759	55.4%
Owner Supplied Pipe and Vaults				148,998	
FPL BCE			\$ 91,543	91,543	100.0%
FPL Design Cost			\$ 12,757	12,850	100.7%
ATT Design Cost				5,000	
Comcast Design Cost				3,128	
Utility Costs (FPL, Comcast, AT&T)					
Street Light Conversion FPL				4,222	
Construction Engineering (KH)			\$ 324,309	72,337	22.3%
Total Phase 4 North Construction	\$ 4,605,000	\$ 6,275,000	\$ 5,493,889	3,153,107	57.4%
Phase 4 South Construction	4,710,000	7,640,000			
Preconstruction			\$ 34,800	34,800	100.0%
Construction			\$ 8,810,126	-	0.0%
Construction with Lake Drive Park			\$ 320,311	363,499	113.5%
Owner Supplied Pipes				2,170	
FPL Design Cost			\$ 13,160	1,350	10.3%
ATT Design Cost				5,000	
Comcast Design Cost				3,128	
Utility Costs (FPL, Comcast, AT&T)			\$ 1,148,441	1,148,441	100.0%
Construction Engineering (KH)			\$ 333,659	8,382	2.5%
Total Phase 4 South Construction	\$ 4,710,000	\$ 7,640,000	\$ 10,660,497	1,566,770	14.7%
Easement Acquisition/Abandonment	\$ 240,000	\$ 411,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance (KH)			\$ 280,270	280,254	100.0%
Easement Assistance (KH) -- Switches			\$ 67,747	67,231	99.2%
Easement Assistance (KH)			\$ 59,369	35,325	59.5%
<i>Surveys</i>					
Legal Sketch			\$ 38,230	38,092	99.6%
Legal Sketch - Switches			\$ 4,967		
Jones Foster - Legal					
Recording Costs				5,621	
Easement Abandonment					
Total Easement Acquisition Costs	\$ 240,000	\$ 411,000	\$ 450,583	426,523	94.7%
Total Phase 4 Costs	\$ 10,370,000	\$ 15,220,000	#####	6,039,750	34.5%

Underground Utility Project Budget
Phase 5 Project Costs
December 31, 2021

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 5					
Kimley Horn					
Task 1.1 Phase 5 North Design	\$ 520,000		\$ 454,210	\$ 454,210	100.0%
Task 1.2 Phase 5 South Design	\$ 600,000		\$ 606,951	\$ 606,951	100.0%
Task 1.3 Permitting Assistance North/South			\$ 17,100	\$ 17,100	100.0%
Task 1.4 Bid Phase Assistance North/South			\$ 37,899	\$ 37,899	100.0%
Task 1.6 Meetings North/South			\$ 77,911	\$ 77,905	100.0%
Total Phase 5 Design	\$ 1,120,000	\$ 1,195,000	\$ 1,194,071	\$ 1,194,065	100.0%
Construction Costs					
Phase 5 North Construction	\$ 5,890,000	\$ 8,055,000			
Preconstruction			\$ 59,100	59,100	100.0%
Construction			\$ 6,416,942		0.0%
Construction Manager			\$ 940,702		0.0%
Utility Costs (FPL, Comcast, AT&T)			\$ 67,157	67,157	100.0%
AT&T Design			\$ 5,000	5,000	100.0%
FPL Design Costs			\$ 16,223	30,330	187.0%
Reimburse Caren and Gary Marder work performed			\$ 6,100	6,100	100.0%
Construction Engineering (KH)			\$ 334,157	15,189	4.5%
Total Phase 5 North Construction	\$ 5,890,000	\$ 8,055,000	\$ 7,845,381	\$ 182,876	2.3%
Phase 5 South Construction	\$ 6,750,000	\$ 10,545,000			
Preconstruction			\$ 59,100	59,100	100.0%
Construction			\$ 6,629,361		0.0%
Infrastructure from Phase 4 south bid			\$ 163,350		0.0%
Construction Manager			\$ 979,098		0.0%
Utility Costs (FPL, Comcast, AT&T)			\$ 365,720	365,720	100.0%
AT&T Design			\$ 5,000	5,000	100.0%
FPL Design Costs			\$ 19,283	20,633	107.0%
Construction Engineering (KH)			\$ 334,159	6,771	2.0%
Total Phase 5 South Construction	\$ 6,750,000	\$ 10,545,000	\$ 8,555,071	\$ 457,224	5.3%
Easement Acquisition/Abandonment	\$ 330,000	\$ 365,000			
<i>Kimley Horn Easement Assistance</i>					
<i>Easement Assistance</i>			\$ 218,600	\$ 218,536	100.0%
Easement Assistance			\$ 81,086	\$ 77,963	96.1%
<i>Surveys</i>					
Legal Sketch			\$ 41,080	\$ 32,130	78.2%
Jones Foster - Legal					
Legal Ads				\$ 327	
Recording Costs				\$ 4,931	
Easement Abandonment				\$ -	
Total Easement Acquisition Costs	\$ 330,000	\$ 365,000	\$ 340,766	\$ 333,888	98.0%
FEMA Grant		\$ (8,465,355)			
Total Phase 5 Costs	#####	#####	\$ 17,935,288	#####	12.1%

Underground Utility Project Budget
Phase 6 Project Costs
December 31, 2021

	OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 6 Design					
Kimley Horn					
Task 1.1 Phase 6 North Design	\$ 420,000		\$ 475,019	\$ 266,011	56.0%
Task 1.2 Phase 6 South Design	\$ 940,000		\$ 826,551	\$ 380,213	46.0%
Task 1.3 Permitting Assistance North/South			\$ 17,694		0.0%
Task 1.4 Bid Phase Assistance North/South			\$ 35,938		0.0%
Task 1.6 Meetings North			\$ 84,791	\$ 77,056	90.9%
Total Phase 6 Design	\$ 1,360,000	\$ 1,440,000	\$ 1,439,993	\$ 723,280	50.2%
Utility and Construction Costs					
Phase 6 North Construction	\$ 4,790,000	\$ 6,615,000			
Preconstruction			\$ 24,270		
Construction					
Approved Change Orders					
FPL Design Cost			\$ 15,868	29,198	184.0%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)					
Total Phase 6 North Construction	\$ 4,790,000	\$ 6,615,000	\$ 40,138	\$ 29,198	72.7%
Phase 6 South Construction	\$ 10,270,000	\$ 12,298,000			
Preconstruction			\$ 24,270		
Construction					
Approved Change Orders					
FPL Design Cost			\$ 29,924	29,924	100.0%
ATT Design Cost			\$ 10,000	10,000	100.0%
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)					
Total Phase 6 South Construction	\$ 10,270,000	\$ 12,298,000	\$ 64,194	\$ 39,924	62.2%
Easement Acquisition/Abandonment	\$ 400,000	\$ 447,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 351,594	\$ 251,246	71.5%
<i>Surveys</i>					
Legal Sketch			\$ 58,415	\$ 13,023	22.3%
Legal Ads				\$ 113	
Recording Costs				\$ 1,593	
Easement Abandonment				\$ -	
Total Easement Acquisition Costs	\$ 400,000	\$ 447,000	\$ 410,009	\$ 265,974	64.9%
Total Phase 6 Costs	\$ 16,820,000	\$ 20,800,000	\$ 1,954,334	\$ 1,058,376	54.2%

Underground Utility Project Budget
Phase 7 Project Costs
December 31, 2021

	OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 7 Design					
Kimley Horn					
Task 1.1 Phase 7 North Design	\$ 450,000		\$ 492,488	\$ 192,070	39.0%
Task 1.2 Phase 7 South Design	\$ 480,000		\$ 630,830	\$ 157,708	25.0%
Task 1.3 Bid Phase Assistance North and South			\$ 35,938		0.0%
Task 1.4 Meetings North and South			\$ 77,616	\$ 693	0.9%
Total Phase 7 Design	\$ 930,000	\$ 1,237,000	\$ 1,236,872	\$ 350,470	28.3%
Utility and Construction Costs					
Phase 7 North Construction	\$ 5,140,000	\$ 7,005,000			
Preconstruction					
Construction					
Approved Change Orders					
FPL Design Cost			\$ 15,806	27,165	171.9%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)					
Total Phase 7 North Construction	\$ 5,140,000	\$ 7,005,000	\$ 15,806	\$ 27,165	171.9%
Phase 7 South Construction	\$ 5,380,000	\$ 7,320,000			
Preconstruction					
Construction					
Approved Change Orders					
FPL Design Cost			\$ 19,953	19,953	100.0%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)					
Total Phase 7 South Construction	\$ 5,380,000	\$ 7,320,000	\$ 19,953	\$ 19,953	100.0%
Easement Acquisition/Abandonment	\$ 280,000	\$ 348,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 346,459	\$ 14,761	4.3%
Surveys					
Legal Sketch					
Legal Ads				\$ 113	
American Acquisition Group					
Temp Services					
Recording Costs				\$ 406	
Total Easement Acquisition Costs	\$ 280,000	\$ 348,000	\$ 346,459	\$ 15,280	4.4%
Total Phase 7 Costs	\$ 11,730,000	\$ 15,910,000	\$ 1,619,090	\$ 412,869	25.5%

Underground Utility Project Budget
Phase 8 Project Costs
December 31, 2021

	OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 8 Design					
Kimley Horn					
Task 1.1 Phase 8 Design	\$ 1,010,000	\$ 1,151,000	\$ 1,029,017	\$ 174,933	17.0%
Task 1.2 Permitting Assistance			\$ 17,694		0.0%
Task 1.3 Bid Phase Assistance			\$ 14,430		0.0%
Task 1.4 Meetings			\$ 89,778	\$ 346	0.4%
Total Phase 8 Design	\$ 1,010,000	\$ 1,151,000	\$ 1,150,919	\$ 175,279	15.2%
Utility and Construction Costs					
Phase 8 Construction	\$ 10,990,000	\$ 13,107,000			
Preconstruction					
Construction					
Approved Change Orders					
FPL Design Cost			\$ 13,160	13,160	100.0%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)					
Total Phase 8 North Construction	\$ 10,990,000	\$ 13,107,000	\$ 13,160	\$ 13,160	100.0%
Easement Acquisition/Abandonment	\$ 300,000	\$ 242,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 227,724	\$ 123,174	54.1%
Surveys					
Legal Sketch					
Legal Ads				\$ 56	
American Acquisition Group					
Temp Services					
Recording Costs				\$ 87	
Total Easement Acquisition Costs	\$ 300,000	\$ 242,000	\$ 227,724	\$ 123,318	54.2%
Total Phase 8 Costs	\$ 12,300,000	\$ 14,500,000	\$ 1,391,803	\$ 311,757	22.4%

Underground Utility Project Budget
Other Project Costs
December 31, 2021

Master Plan	Budget	Actual	% Expended
Task 1.1 - Data Collection & GIS Base Mapping	\$ 88,021	\$ 88,021	100.0%
Task 1.1a Data Collection for Future Communications	\$ 23,511	\$ 23,511	100.0%
Task 1.2 - Conceptual Design and Master Plan	\$ 161,756	\$ 161,756	100.0%
Task 1.3 - Project Sequencing and Phasing	\$ 31,244	\$ 31,244	100.0%
Task 1.4 - Assessment of Traffic Impacts	\$ 77,660	\$ 77,660	100.0%
Task 1.5 - Project Delivery Methods	\$ 17,448	\$ 17,448	100.0%
Task 1.6 - Master Plan Document	\$ 45,053	\$ 45,053	100.0%
Task 1.7 - Meetings Master Planning Phase	\$ 113,135	\$ 113,123	100.0%
Task 1.8 - Master Plan Second Half	\$ 40,067	\$ 40,067	100.0%
Subtotal Master Planning	\$ 597,895	\$ 597,883	100.0%
Comcast Preplanning - Master Plan	\$ 12,015	\$ 12,015	100.0%
Assessment Costs, Fees and Discounts	\$ 786,560	\$ 786,560	100.0%
Project Manager -Pay and benefits	\$ 559,547	\$ 520,706	93.1%
Temp Services - Easement Acquisition	\$ 150,000	\$ 97,309	64.9%
Other Miscellaneous Expenses		\$ 22,506	
General Easement Assistance	\$ 24,976	\$ 24,838	99.4%
Community Outreach	\$ 282,519	\$ 223,214	79.0%
Peer Review Study - Patterson & Dewar (\$50,000 Offsetting Revenue)	\$ 100,000	\$ 100,000	100.0%
Total Other Project Costs	\$ 2,513,512	\$ 2,385,030	94.9%

Debt Service and Related Debt Issuance Costs

	Budget	Actual	% Expended
Commercial Paper Issuance Cost	\$ 260,116	\$ 260,116	100.0%
Commercial Paper Interest	\$ 243,096	\$ 243,096	100.0%
Arbitrage Rebate Calculation	\$ 2,500	\$ 1,400	56.0%
Debt Service Fees	\$ 2,000	\$ 800	40.0%
GO Bond Closing Costs 2018	\$ 488,271	\$ 487,471	99.8%
GO Bond Closing Costs 2021	\$ 202,169	\$ 202,380	100.1%
GO Bond Debt Service	\$ 13,345,005	\$ 10,586,462	79.3%
Total Debt Service and Related Debt Issuance Costs	\$ 14,543,157	\$ 11,781,724	81.0%

Related Costs Outside of the Underground Project Budget

	Budget	Actual	% Expended
Costs paid from (307) Fund CIP			
Underground City of Lake Worth Section			
Project Design	\$ 25,231	\$ 24,430	96.8%
Project Construction	\$ 351,081	\$ 346,124	98.6%
Project Construction Engineering	\$ 11,607	\$ 12,849	110.7%
Utility Cost (FPL, Comcast, AT&T)	\$ 134,333	\$ 127,531	94.9%
Project Meeting Attendance	\$ 3,334	\$ 2,914	87.4%
Total Lake Worth Section	\$ 525,586	\$ 513,847	97.8%
Ibis Way PGD Improvements	\$ 14,583	\$ 14,583	100.0%
General Fund Costs			
Goldmacher v TPB Legal and Other Costs		\$ 183,701	
Kosberg v TPB Legal and Other Costs		\$ 607,002	
PBT Real Estate v TPB		\$ 188,464	
Gardner, Bist Bowden, Bush (Shef Wright)		\$ 24,799	
Telecommunications Consultant	\$ 89,000	\$ 83,210	93.5%
Peter Brandt (Contract Negotiations)	\$ 35,000	\$ 23,735	67.8%
Total Related Costs Outside of the Budget	\$ 664,169	\$ 1,639,342	246.8%

Town of Palm Beach - Underground Utility Project Dashboard - December 2021



TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Authorization for the Town Manager to Modify FDEM Grant No. H0374 for Town Utility Undergrounding Project
Resolution No. 006-2022

DATE: December 10, 2021

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 006-2022 authorizing the Town Manager to sign the Florida Division of Emergency Management (FDEM) Modification No. 1 to State Grant No. H0374 for Federal cost-sharing participation in the amount of \$8,062,242.74 for utility protection measures within the Town Utility Undergrounding Project. Staff also recommends the Town Council authorize the Town Manager to sign future modifications if necessary.

GENERAL INFORMATION

On December 17, 2019, the Town entered into Grant No. H0374 with FDEM. This cost-share agreement included Federal reimbursement in the amount of up to 8,465,355.00 with an expiration date of March 31, 2022. This included an initial Federal funding commitment of \$8,062,242.74 with a contingency of \$403,112.26. Modification No. 1 to this agreement extends the terms of the agreement to May 30, 2023 and maintains the initial funding commitment. Executing this modification to the agreement affords the Town the opportunity to maximize Federal cost sharing by extending the eligible period of performance to accommodate the delays to multiyear effort that is underway.

FUNDING/FISCAL IMPACT

FEMA funds from Hurricane Irma disaster declaration No. 4337, through the Hazard Mitigation Grant Program DR-4337-278-R, will reimburse the Town up to \$8,062,242.74 for 47.3% of \$17,881,831.00 total cost to be spent on eligible Utility Undergrounding Project utility protection measures.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

Attachment

cc: Jay Boodheshwar, Deputy Town Manager
Jane Le Clainche, Director of Finance
Patricia Strayer, P.E., Town Engineer
Dean Mealy, Purchasing Manager

RESOLUTION NO. 006-2022

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING MODIFICATION NO. 1 TO STATE GRANT OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT CONTRACT NO. H0374, BETWEEN THE STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT AND THE TOWN OF PALM BEACH UNDER THE FEMA DISASTER DECLARATION NO. 4337 FOR HURRICANE IRMA, SPECIFICALLY REIMBURSEMENT FOR UTILITY PROTECTION MEASURES WITHIN THE TOWN UTILITY UNDERGROUNDING PROJECT IN THE MODIFIED AMOUNT OF \$8,062,242.74, AUTHORIZING THE TOWN MANAGER TO EXECUTE SAME ON BEHALF OF THE TOWN, AND AUTHORIZING THE TOWN MANAGER TO EXECUTE FUTURE MODIFICATIONS ON BEHALF OF THE TOWN.

WHEREAS, the Town of Palm Beach (Town) and the Florida Division of Emergency Management (FDEM), have worked cooperatively by executing cost-sharing agreements related to declared disasters; and

WHEREAS, the FDEM has agreed to a cost-share on eligible utility protection measures related to the Town Utility Undergrounding Project.

NOW, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The foregoing recitals are hereby ratified and confirmed.

Section 2. The Town Council hereby authorizes the attached State of Florida Division of Emergency Management (FDEM) Contract No. H0374, to reimburse the Town with eligible costs associated with utility protection measures for the Town Utility Undergrounding Project in the modified amount of \$8,062,242.74, and to extend the terms of the contract to May 30, 2023.

Section 3. The Town Manager is hereby authorized to execute FDEM Contract No. H0374, on behalf of the Town.

Section 5. This Resolution and shall be provided to the Florida Division of Emergency Management, Mitigation Bureau – HMGP, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, Attention – Grant Specialist – Maleather Y. Ash, FCCM, in accompaniment with two executed originals of FDEM Contract No. H0374.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 11th day of January 2022.

Danielle H. Moore, Mayor

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

Contract Number: H0374

Project Number: 4337-278-R

**MODIFICATION TO SUBGRANT AGREEMENT BETWEEN
THE DIVISION OF EMERGENCY MANAGEMENT AND
THE TOWN OF PALM BEACH**

This Modification Number One is made and entered into by and between the State of Florida, Division of Emergency Management ("the Division"), and the Town of Palm Beach ("the Sub-Recipient") to modify Contract Number H0374, dated December 17, 2019 ("the Agreement").

WHEREAS, the Division and the Sub-Recipient desire to modify the Agreement; and

WHEREAS, the Division and the Sub-Recipient have entered into the Agreement, pursuant to which the Division has provided a subgrant to the Sub-Recipient under the Hazard Mitigation Grant Program of \$8,465,355.00, in Federal Funds; and

WHEREAS, the Agreement shall expire on March 31, 2022; and

WHEREAS, the Division and the Sub-Recipient desire to extend the terms of the Agreement, modify the Scope of Work, and decrease the Federal Funding under the Agreement.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, the parties agree as follows:

1. Paragraph 8 of the Agreement is hereby amended to read as follows:

(8) PERIOD OF AGREEMENT

This Agreement shall begin December 17, 2019 and shall end May 30, 2023, unless terminated earlier in accordance with the provisions of Paragraph (17) of this Agreement.

2. The Agreement is amended to decrease the Federal Funding by \$403,112.26, for the maximum amount payable under the Agreement to \$8,062,242.74, (Eight Million Sixty-Two Thousand Two Hundred Forty-Two Dollars and Seventy-Four Cents).
3. The Budget and Scope of Work, Attachment A to this Agreement, are hereby modified as set forth in 1st Revision Attachment A to this Modification, a copy of which is attached hereto and incorporated herein by reference. The Total Project Cost increases by \$2,178,815.00 with a total decrease to the Federal Share of \$403,112.26 and a total increase to the Non-Federal Share of \$2,581,927.26.
4. All provisions of the Agreement being modified and any attachments thereto in conflict with Modification shall be and are hereby changed to conform to this Modification, effective as of the date of the last execution of this Modification by both parties.

5. All provisions not in conflict with this Modification remain in full force and effect, and are to be performed at the level specified in the Agreement.
6. Quarterly Reports are due to the Division no later than 15 days after the end of each quarter of the program year and shall be sent each quarter until submission of the administrative closeout report. The ending dates of each quarter of the program year are March 31, June 30, September 30, and December 31.

IN WITNESS WHEREOF, the parties hereto have executed this Modification as of the dates set out below.

SUB-RECIPIENT: TOWN OF PALM BEACH

By: _____

Name and Title: _____

Date: _____

**STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT**

By: _____

Name and Title: Kevin Guthrie, Director

Date: _____

Attachment A
(1st Revision)
Budget and Scope of Work

STATEMENT OF PURPOSE:

The purpose of this Scope of Work is to provide protective measures to the utility infrastructure in the Town of Palm Beach, Palm Beach County, Florida, funded through the Hazard Mitigation Grant Program (HMGP) **DR-4337-278-R**, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA).

The Sub-Recipient, Town of Palm Beach, agrees to administer and complete the project per scope of work as submitted by the Sub-Recipient and subsequently approved by the Division and FEMA. The Sub-Recipient shall complete the work in accordance with all applicable Federal, State and Local Laws, Regulations and Codes.

PROJECT OVERVIEW:

As a Hazard Mitigation Grant Program project, the Sub-Recipient proposes to provide protection to the utility infrastructure in the north area of town that consists of properties between Country Club Road south to Southland Road and in the south area of town that consists of properties between South Lake Drive and Hibiscus Avenue, from Peruvian Avenue to Royal Palm Way to Seaspray Avenue, in the Town of Palm Beach, Florida, 33480.

The HMGP project scope of work proposes to bury overhead utility infrastructure consisting of electrical, telephone, and cable communications. The Town of Palm Beach is predominantly served with electric and communications services through a network of overhead wires mounted to an estimated 2,000 wood or concrete poles. There are approximately 37 pole-miles of overhead infrastructure within the Town limits. The removal of utility poles and overhead lines provides increased survivability for wind storms and improved safety benefits by reducing the potential of hazardous conditions occurring in the event of natural disasters. Severe wind events can cause poles and/or overhead lines to fall and impact property and possibly cause live electric lines to be exposed. Downed electric lines and vegetation overgrowth onto electric lines pose a potential threat of property fire and injury due to electric shock and can restrict ingress and egress of residents and emergency services.

The project shall provide protection against 170 MPH winds or the wind speed protection and impact requirements indicated by the effective Florida Building Code or any other applicable code at the time permits are issued. Activities shall be in strict compliance with Federal, State and Local applicable Rules and Regulations.

Project Locations:

Location	Coordinates	
North Area Palm Beach, FL 33480	NW	(26.741668, - 80.041836)
	SW	(26.735387, - 80.041889)
	NE	(26.741625, - 80.035464)

	SE	(26.735344, - 80.035517)
South Area Palm Beach, FL 33480	NW	(26.708328, - 80.043642)
	SW	(26.701659, - 80.043956)
	NE	(26.708108, - 80.033032)
	SE	(26.701461, - 80.038783)
	E	(26.705534, - 80.033083)

TASKS & DELIVERABLES:

A) Tasks:

- 1) The Sub-Recipient shall procure the services of a qualified and licensed Florida contractor and execute a contract with the selected bidder to complete the scope of work as approved by the Division and FEMA. The Sub-Recipient shall select the qualified, licensed Florida contractor in accordance with the Sub-Recipient's procurement policy as well as all Federal and State Laws and Regulations. All procurement activities shall contain sufficient source documentation and be in accordance with all applicable regulations.

The Sub-Recipient shall be responsible for furnishing or contracting all labor, materials, equipment, tools, transportation and supervision and for performing all work per sealed engineering designs and construction plans presented to the Division by the Sub-Recipient and subsequently approved by the Division and FEMA.

The Sub-Recipient and contractor shall be responsible for maintaining a safe and secure worksite for the duration of the work. The contractor shall maintain all work staging areas in a neat and presentable condition.

The Sub-Recipient shall ensure that no contractors or subcontractors are debarred or suspended from participating in federally funded projects.

The selected contractor shall have a current and valid occupational license/business tax receipt issued for the type of services being performed.

The Sub-Recipient shall provide documentation demonstrating the results of the procurement process. This shall include a rationale for the method of procurement and selection of contract type, contractor selection and/or rejection and bid tabulation and listing, and the basis of contract price.

The Sub-Recipient shall provide an executed "Debarment, Suspension, Ineligibility, Voluntary Exclusion Form" for each contractor and/or subcontractor performing services under this agreement.

Executed contracts with contractors and/or subcontractors shall be provided to the Division by the Sub-Recipient.

The Sub-Recipient shall provide copies of professional licenses for contractors selected to perform services. The Sub-Recipient shall provide a copy of a current and valid

occupational license or business tax receipt issued for the type of services to be performed by the selected contractor.

- 2) The Sub-Recipient shall monitor and manage the procurement and installation of all products in accordance with the HMGP application and associated documentation as presented to the Division by the Sub-Recipient and subsequently approved by the Division and FEMA. The Sub-Recipient shall ensure that all applicable State, Local and Federal Laws and Regulations are followed and documented, as appropriate.

The project shall protect the structure resulting from high wind storms which shall allow the function of the structures to continue following a severe wind event.

The Sub-Recipient shall fully perform the approved project, as described in the application, in accordance with the approved scope of work indicated herein, the estimate of costs indicated herein, the allocation of funds indicated herein, and all applicable terms and conditions. The Sub-Recipient shall not deviate from the approved project terms and conditions.

Upon completion of the work, the Sub-Recipient shall schedule and participate in a final inspection of the completed project by the local municipal or county building department (official), or other approving official, as applicable. The official shall inspect and certify that all installation was in accordance with the manufacturer's specifications. Any deficiencies found during this final inspection shall be corrected by the Sub-Recipient prior to Sub-Recipient's submittal of the final inspection request to the Division.

Upon completion of Task 2, the Sub-Recipient shall submit the following documents with sufficient supporting documentation, and provide a summary of all contract scope of work and scope of work changes, if any. Additional documentation shall include:

- a) Copy of permit(s), notice of commencement.
 - b) Local Building Official Inspection Report and Final Approval.
 - c) A copy of designs, specifications and/or drawings elaborated to complete the scope.
 - d) Signed and Sealed copy of the As-built plans, as applicable.
 - e) Certified Letter of Completion, as applicable:
 1. Affirming that the project has been completed in conformance with the approved project drawings, specifications, and scope.
 2. Certifying Compliance with all applicable codes.
 - f) All Product Specifications / Data Sheet(s) (technical standards) satisfying protection requirements on all products utilized.
 - g) Proof of compliance with Project Conditions and Requirements contained herein.
- 3) During the course of this agreement, the Sub-Recipient shall submit requests for reimbursement. Adequate and complete source documentation shall be submitted to support all costs (federal share and local share) related to the project. In some cases, all project activities may not be fully complete prior to requesting reimbursement of costs incurred in completion of this scope of work; however, a partial reimbursement may be requested.

The Sub-Recipient shall submit an Affidavit signed by the Sub-Recipient's project personnel with each reimbursement request attesting to the completion of the work, that

disbursements or payments were made in accordance with all agreement and regulatory conditions, and that reimbursement is due and has not been previously requested.

The Sub-Recipient shall maintain accurate time records. The Sub-Recipient shall ensure invoices are accurate and any contracted services were rendered within the terms and timelines of this agreement. All supporting documentation shall agree with the requested billing period. All costs submitted for reimbursement shall contain adequate source documentation which may include but not be limited to: cancelled checks, bank statements, Electronic Funds Transfer, paid bills and invoices, payrolls, time and attendance records, contract and subcontract award documents.

Construction Expense: The Sub-Recipient shall pre-audit bills, invoices, and/or charges submitted by the contractors and subcontractors and pay the contractors and subcontractors for approved bills, invoices, and/or charges. Sub-Recipient shall ensure that all contractor/subcontractor bills, invoices, and/or charges are legitimate and clearly identify the activities being performed and associated costs.

Project Management Expenses: The Sub-Recipient shall pre-audit source documentation such as payroll records, project time sheets, attendance logs, etc. Documentation shall be detailed information describing tasks performed, hours devoted to each task, and the hourly rate charged for each hour including enough information to calculate the hourly rates based on payroll records. Employee benefits shall be clearly shown.

The Division shall review all submitted requests for reimbursement for basic accuracy of information. Further, the Division shall ensure that no unauthorized work was completed prior to the approved project start date by verifying vendor and contractor invoices. The Division shall verify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the mitigation measures are in compliance with the approved scope of work prior to processing any requests for reimbursement.

Review and approval of any third party in-kind services, if applicable, shall be conducted by the Division in coordination with the Sub-Recipient. Quarterly Reports shall be submitted by the Sub-Recipient and received by the Division at the times provided in this agreement prior to the processing of any reimbursement.

The Sub-Recipient shall submit to the Division requests for reimbursement of actual construction and managerial costs related to the project as identified in the project application, and plans. The requests for reimbursement shall include:

- a) Contractor, subcontractor, and/or vendor invoices which clearly display dates of services performed, description of services performed, location of services performed, cost of services performed, name of service provider and any other pertinent information;
- b) Proof of payment from the Sub-Recipient to the contractor, subcontractor, and/or vendor for invoiced services;
- c) Clear identification of amount of costs being requested for reimbursement as well as costs being applied against the local match amount.

The Sub-Recipient's final request for reimbursement shall include the final construction project cost. Supporting documentation shall show that all contractors and subcontractors have been paid.

B) Deliverables:

Mitigation Activities consist of providing protection to the utility infrastructure, located in the north area of town that consists of properties between Country Club Road south to Southland Road and in the south area of town that consists of properties between South Lake Drive and Hibiscus Avenue, from Peruvian Avenue to Royal Palm Way to Seaspray Avenue, in the Town of Palm Beach, Florida, 33480, by burying overhead utility infrastructure consisting of electrical, telephone, and cable communications.

The project shall provide protection against 170 MPH winds or the wind speed protection and impact requirements indicated by the effective Florida Building Code at the time permits are issued.

Provided the Sub-Recipient performs in accordance with the Scope of Work outlined in this Agreement, the Division shall reimburse the Sub-Recipient based on the percentage of overall project completion.

PROJECT CONDITIONS AND REQUIREMENTS:

C) Engineering:

- 1) The Sub-Recipient shall submit to the Division an official letter stating that the project is 100% complete and ready for the Division's Final Inspection of the project.
- 2) The Sub-Recipient shall provide a copy of the Notice of Commencement, and any local official Inspection Report and/or Final Approval, as applicable.
- 3) The Sub-Recipient shall submit a final copy of the completed project's As-built drawings and all necessary supporting documentation and provide a summary of all contract scope of work changes, as applicable.
- 4) The Sub-Recipient shall submit a final copy of any electrical designs, specifications and/or drawings elaborated to complete the job.
- 5) The Sub-Recipient shall submit a certified letter of completion from Engineer of Record, as applicable. The Sub-Recipient's Engineer of Record shall provide a formal certificate or letter affirming that the project has been completed in conformance with the approved project drawings, specifications, scope, and applicable codes.
- 6) The Sub-Recipient shall submit all Product Specifications / Data Sheet(s) (technical standards) satisfying protection requirements on all products utilized.
- 7) All installations shall be done in strict compliance with the Florida Building Code or Miami Dade Specifications. All materials shall be certified to meet or exceed the wind and impact standards of the current local codes.
- 8) Product Specifications documentation satisfying protection requirements for all products utilized shall be provided to the Division for closeout.

D) Environmental:

- 1) The Sub-Recipient shall follow all applicable state, local and federal laws, regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate federal, state, and local environmental permits and clearances may jeopardize federal funding. If project is delayed for a year or more after the date of the categorical exclusion (CATEX), then coordination with and project review by regulatory agencies must be redone.

- 2) Any change, addition or supplement to the approved mitigation measure or scope of work that alters the project (including other work not funded by FEMA, but done substantially at the same time) shall require resubmission to the Division and FEMA for reevaluation of compliance with the National Environmental Protection Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA) prior to initiation of any work. Non-compliance with these requirements may jeopardize FEMA's ability to fund this project. A change in the scope of work shall be approved by the Division and FEMA in advance regardless of the budget implications.
- 3) If any ground disturbance activities occur during construction, the Sub-Recipient shall monitor ground disturbance during construction, and if any potential archeological resources are discovered, shall immediately cease construction in that area and notify the Division and FEMA.
- 4) Construction vehicles and equipment used for this project shall be maintained in good working order to minimize pollutant emissions.

E) Programmatic:

- 1) The Sub-Recipient must notify the Division as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower costs or earlier completion.
- 2) The Division and FEMA shall approve a change in the scope of work in advance, regardless of the impact to the budget.
- 3) The Sub-Recipient must "obtain prior written approval for any budget revision which would result in a need for additional funds" [44 CFR 13(c)], from the Division and FEMA.
- 4) Any extension of the Period of Performance shall be submitted to FEMA 60 days prior to the expiration date. Therefore, any request for a Period of Performance Extension shall be in writing and submitted, along with substantiation of new expiration date and a new schedule of work, to the Division a minimum of seventy (70) days prior to the expiration date, for Division processing to FEMA.
- 5) The Sub-Recipient must avoid duplication of benefits between the HMGP and any other form of assistance, as required by Section 312 of the Stafford Act, and further clarification in 44 CFR 206.191.
- 6) A copy of the executed subcontract agreement must be forwarded to the Division within 10 days of execution.
- 7) Project approval is with the condition that the tasks, deliverables, and conditions be accomplished and submitted 30 days prior to the Period of Performance date, for review and approval by the Division, for submittal to FEMA for Closeout.
- 8) Per FEMA Hazard Mitigation Assistance Guidance Part VI, D.3.4 – Contingency funds are not automatically available for use. Prior to their release, contingency funds must be re-budgeted to another direct cost category and identified. Post-award changes to the budget require prior written approval from the Division (FDEM). The written request should demonstrate what unforeseen condition related to the project arose that required the use of contingency funds.

This is FEMA project number **4337-278-R**. It is funded under HMGP, FEMA-4337-DR-FL and must adhere to all program guidelines established for the HMGP in accordance with the PAS Operational Agreement for Disaster 4337.

FEMA awarded this project on September 27, 2019; this Agreement was executed on December 17, 2019, and the Period of Performance for this project shall end on **May 30, 2023**.

F) FINANCIAL CONSEQUENCES:

If the Sub-Recipient fails to comply with any term of the award, the Division shall take one or more of the following actions, as appropriate in the circumstances:

- 1) Temporarily withhold cash payments pending correction of the deficiency by the Sub-Recipient;
- 2) Disallow all or part of the cost of the activity or action not in compliance;
- 3) Wholly or partly suspend or terminate the current award for the Sub-Recipient's program;
- 4) Withhold further awards for the program; or
- 5) Take other remedies that may be legally available.

SCHEDULE OF WORK

State Contracting:	3 Months
Construction Plan/Technical Specifications:	3 Months
Bidding / Local Procurement:	3 Months
Permitting:	3 Months
Construction / Installation:	23 Months
Local Inspections / Compliance:	2 Months
State Final Inspection / Compliance:	2 Months
Closeout Compliance:	3 Months
Total Period of Performance:	42 Months

BUDGET

Line Item Budget*

	Project Cost	Federal Cost	Non-Federal Cost
Materials:	\$989,423.00	\$468,398.17	\$521,024.83
Labor:	\$11,020,183.00	\$5,217,013.92	\$5,803,169.08
Fees:	\$5,020,709.00	\$2,376,830.65	\$2,643,878.35
Initial Agreement Amount:	\$17,030,315.00	\$8,062,242.74	\$8,968,072.26
***Contingency Funds:	\$851,516.00	\$403,112.26	\$448,403.74
Project Total:	\$17,881,831.00	\$8,465,355.00	\$9,416,476.00

**Any line item amount in this Budget may be increased or decreased 10% or less, with the Division's approval, without an amendment to this Agreement being required, so long as the overall amount of the funds obligated under this Agreement is not increased.*

***** This project has an estimated \$851,516.00 in contingency funds.** Per FEMA Hazard Mitigation Assistance Guidance Part VI, D.3.4 – Contingency funds are not automatically available for use. Prior to their release, contingency funds must be re-budgeted to another direct cost category and identified. Post-award changes to the budget require prior written approval from the Division (FDEM). The written request should demonstrate what unforeseen condition related to the project arose that required the use of contingency funds.

Project Management costs are included for this project in the amount of \$0.00.

Funding Summary Totals

Federal Share:	\$8,465,355.00	(47.340538002%)
Non-Federal Share:	\$9,416,476.00	(52.659461998%)
Total Project Cost:	\$17,881,831.00	(100.00%)

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Update from John Potts Regarding the Work of the City of West Palm Beach's Panel of Water Quality Experts

TIME CERTAIN: 3:00 PM

Time Certain

3:00pm

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated December 28, 2021, from H. Paul Brazil, P.E., Director of Public Works**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

TO: Mayor and Town Council
VIA: Kirk. W. Blouin, Town Manager
FROM: H. Paul Brazil, P.E., Director of Public Works
RE: City of West Palm Beach Water Expert Panel Update
DATE: December 28, 2021

STAFF RECOMMENDATION

Town staff requests that the Town Council provide any direction deemed necessary.

GENERAL INFORMATION

John Potts from Kimley Horn and Associates will be providing an update on the City of West Palm Beach Expert Panel Meeting #7 that is being held on January 11, 2022. Staff will continue to provide monthly updates while the expert panel completes its work.

FUNDING/FISCAL IMPACT

There is no fiscal impact associated with this item at this time.

cc: Jason Debrincat, P.E., Senior Project Engineer

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Regular Agenda - Old Business

Agenda Title

North Fire Station Renovation Update

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- ▣ **Memorandum dated December 9, 2021, from H. Paul Brazil, P.E.,
Director of Public Works**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

TO: Mayor and Town Council

VIA: Kirk. W. Blouin, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: North Fire Station Renovation Update

DATE: December 9, 2021

STAFF RECOMMENDATION

Town staff requests that the Town Council provide any direction deemed necessary.

GENERAL INFORMATION

During the Fiscal Year (FY) 2022 budget process, staff became aware of the immediate issue and concern for mold in the walls of the North Fire Station. While the air quality at the time was not a danger to staff, the concern was that at any moment the air quality could deteriorate and cause the need to evacuate the station. The Capital Improvement Plan budget had included \$5.5 million for the design and construction split between FY 2023 and FY 2024. Subsequently, Town Council approved expediting the design and construction into FY 2022.

Since this approval, staff has initiated weekly internal staff meetings. These meetings include Public Works, Fire Department, IT, Purchasing, and the Town Manager, as necessary. Once the air quality became a concern, staff realized that a temporary location for the staff located at the North Fire Station would be required. Also, in order to preserve Fire Department response time and life safety for the residents in the north end of the island, a temporary site for personnel and equipment needs to be fully operational prior to any renovation work commencing. Staff initially worked together weekly to expedite the temporary site location, the design for the temporary site, the monitoring of the air quality inside the station, and the necessary purchasing RFQ's. Now that the design contract and the Construction Manager at Risk contract has been awarded and purchase orders have been issued, staff continues to meet weekly to facilitate timely responses to any questions or issues. Monthly design meetings have also been initiated with the design architect.

As the project progresses, staff will continue to provide Town Council with updates as necessary. Staff will also be bringing future contractual items as necessary. For example, a partner item for this item is the approval of the acquisition of the equipment for the temporary site. Staff will be updating the schedule and budget as the design progresses. Please note, when the \$5.5 million budget was developed there was no conceptual design, therefore, a temporary site for the Fire Department staff was never considered. Also, Public Works' budgets do not include funds for fixture, furniture, and equipment. Jason Debrincat is the Senior Project Engineer managing this project.

FUNDING/FISCAL IMPACT

Funding implications will be addressed with each contract presented to Town Council.

cc: Jason Debrincat, P.E., Senior Project Engineer

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Regular Agenda - New Business

Agenda Title

Proposed New Benefit for Public Safety Personnel Provided by the Palm Beach Police and Fire Foundation

RESOLUTION NO. 015-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Council to Enter into an Agreement with the Palm Beach First Responder's Foundation, Inc. to Establish a Retirement Plan for Town of Palm Beach Police Department and Fire Department Employees that will be Funded and Maintained by the Foundation; Approving the Terms of the Retirement Plan; Authorizing the Mayor to Execute on Behalf of the Town Council; Providing for Severability; Providing for Full Force and Effectiveness; Providing for Repeal of Conflicting Resolutions; and Providing an Effective Date.

TIME CERTAIN: 11:00 AM

Time Certain

11:00 AM

Presenter

Kirk W. Blouin, Town Manager

ATTACHMENTS:

- ❑ **Memorandum Dated January 4, 2022, from Kirk Blouin, Town Manager**
- ❑ **Foundation Cover Letter**
- ❑ **PBFF Plan Summary**
- ❑ **Summary of First Responders Foundation Retirement Plan**
- ❑ **First Responders Foundation Agreement**
- ❑ **First Responders Foundation DC Plan**
- ❑ **Resolution No. 015-2022**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

To: Mayor and Town Council

From: Kirk Blouin, Town Manager

Re: Proposed New Benefit for Public Safety Personnel: Tax Qualified Retirement Plan Adoption/Participation Agreement **Resolution No. 150-2021**

Date: January 4, 2022

STAFF RECOMMENDATION

Staff recommends that Town Council consider Resolution No. 015-2022, authorizing the Mayor to sign the Tax Qualified Retirement Plan Adoption/Participation Agreement establishing a new tax-qualified retirement account for public safety personnel.

GENERAL INFORMATION

The Palm Beach First Responders Foundation, a charitable organization created to support the Town's police and fire department employees, enhance the technology and equipment used by the departments, and provide financial assistance to first responders and their families, has established a retirement plan for the benefit of police and fire department employees. The plan will be sponsored, funded and administered by the Foundation, and will be maintained in addition to the Town's existing employee retirement plans. The Foundation retirement plan will be effective as of December 31, 2021, upon Town Council's approval of an agreement with the Foundation.

FUNDING/FISCAL IMPACT

The plan is sponsored, funded and administered by the First Responders Foundation. The Town will not provide any funding for the plan, nor will the Town be involved in administering the plan.

TOWN ATTORNEY REVIEW

This is a standard resolution, which has been approved by the Town Attorney for legal form and sufficiency. The Participation Agreement has been reviewed and approved for legal form and sufficiency by the Attorney's Jim Linn and Janice Rustin.

Attachments

cc: Jane LeClainche, Finance Director
Jay Boodheshwar, Deputy Town Manager

Gillian Barth, Human Resources Director
Janice Rustin, Attorney
Jim Linn, Attorney
John C. Randolph, Town Attorney



THE PALM BEACH POLICE & FIRE FOUNDATION

Dear Mayor Moore, Town Manager Blouin, and members of the Town Council,

As is in line with our mission, the Palm Beach Police & Fire Foundation has created a retention benefit program in which all Town of Palm Beach Police and Fire-Rescue Department employees are eligible to receive contributions, provided certain criteria are met.

"The Preston Bernick Retention Program," the working name of the plan, was conceived and engineered by Foundation Board members Howard Bernick and John Preston, who firmly believe that supporting and incentivizing the Town's First Responders is the best way to foster loyalty and ensure committed service to our community.

When the Foundation's Benefit Committee met with the leadership and employees of the Police and Fire Departments and asked how it could best support them, they were repeatedly told about the challenges surrounding recruiting and retaining top-quality personnel. The goal of The Preston Bernick Retention Program is to recruit, retain, motivate and reward every employee in both public safety departments.

We at the Foundation believe that this unique program-- the only one of its kind in the country -- will beneficially impact the life of every employee who receives this benefit.

The particulars of the program are that the Foundation will contribute a percentage of each employee's salary, which will be placed into individual, tax-deferred accounts managed by a third party. Employee contributions are neither required nor are they allowed. Individual account balances will vest over six years. It is our hope that when employees reach retirement age, they will have accumulated, what would be the equivalent of two to three years worth of salary that they can use to enjoy their retirement years.

Our goal is to announce the launch of this new program at the 2022 Palm Beach Policemen's & Firefighters' Ball on March 19, 2022 (the rescheduled date) and make first contributions before the end of the Foundation's fiscal year in June 2022.

We sincerely hope that each of you will consider the tremendous benefit this program will provide all employees of both departments and their families. It is in our collective best interest to support it and make it a resounding success.

We thank you for your consideration and look forward to your show of support at the upcoming Town Council meeting.

Sincerely,

Tim Moran
President & Co-Founder



Palm Beach First Responders Foundation Plan Design Summary

A separate 501(C)-3 created by the Palm Beach Police & Fire Foundation

1. **Plan Start Date: January 1, 2021**
 - First contribution being mid-2022 for 2021 Plan Year and each subsequent year will follow the same contribution timing
2. **Foundation/Town Agreement**
 - Agreement between Town and Foundation deeming Foundation as Plan Sponsor
 - Foundation will facilitate establishment of the Plan for all Police and Fire Department employees
3. **Eligible Employee and Exclusions**
 - Police and Fire Department employees age 18 and over and who have completed 1 year of service
 - Individuals who are participating in the Deferred Retirement Option Program under the Town of Palm Beach Employees Retirement System (DROP participants) will be excluded
 - In accordance with federal law, highly compensated employees (those earning more than \$130,000 per year) will be placed in separate classes and may not receive an allocation, based on annual nondiscrimination testing.
 - Any leased employee, independent contractor, seasonal employee or any other employee paid by an outside third party will be excluded

4. Design formula

- Discretionary employer contributions only (no employee contributions) based on a flat % of salary to be determined each year and based on Foundation funding
- Six-year graded vesting schedule beginning at the start of the Plan (no prior service)
- Participant-directed investment choices

5. Restriction on money

- No hardship distributions allowed
- No loans allowed
- Money becomes available as soon as administratively feasible after separate from service
- Money can be rolled over to IRAs.



Palm Beach First Responders Foundation

Sponsored Retirement Plan for the Benefit of Town of Palm Beach Police Department and Fire Department Employees

Summary

1/3/21

Overview: The Palm Beach First Responders Foundation, a charitable organization created to support the Town's police and fire department employees, enhance the technology and equipment used by the departments, and provide financial assistance to first responders and their families, has established a retirement plan for the benefit of police and fire department employees. The plan will be sponsored, funded and administered by the Foundation, and will be maintained in addition to the Town's existing employee retirement plans. The Foundation retirement plan will be effective as of December 31, 2021, upon Town Council's approval of an agreement with the Foundation.

A brief summary of the agreement and retirement plan follows (note this is a summary and in the event of a conflict or inconsistency with any provision of the agreement or retirement plan, the language of the agreement and plan will control):

1. The plan is sponsored, funded and administered by the First Responders Foundation. The Town will not provide any funding for the plan, nor will the Town be involved in administering the plan.
2. The plan will provide a tax-deferred retirement benefit for eligible police and fire department employees, in the form of an individual account for each participating employee. An "eligible employee" is any employee in the police or fire departments, other than a DROP participant, who works more than 1,000 hours in a calendar year. Each year an amount determined by the Foundation will be contributed to the plan, and then allocated to participant accounts on a uniform percentage of compensation basis. In accordance with federal law, highly compensated employees (those earning more than \$130,000 per year) will be placed in separate classes and may not receive an allocation, based on annual nondiscrimination testing. Employees will be able to direct the investment of their retirement accounts among several investment options, and each account will grow over time based on the selected investments. The plan is intended to be tax-qualified, with taxes deferred until the employee retires and begins receiving payments from their account.
3. The agreement between the Town and Foundation will be effective as of December 31, 2021, upon Town Council's approval of the agreement. The agreement will remain in effect until terminated by either party with 30 days written notice, except the Town agrees not to terminate the agreement during the first 6 years.
4. The Foundation has the exclusive right to amend or terminate the plan, with at least 60 days advance written notice to the Town (the notice period may be waived for an amendment that is necessary to maintain compliance with applicable laws).
5. The Town will provide to the Foundation information related to the compensation and benefits of police and fire department employees as necessary for the establishment, funding and

operation of the plan, but will not provide any records deemed confidential and exempt from disclosure under the Florida Public Records Act.

6. The Town agrees to any future amendments and other actions that may be reasonably required to preserve the Foundation's tax exempt status, provided the actions do not materially increase the costs and risks, or materially reduce the rights and benefits of the Town.
7. The Foundation acknowledges that the Town is a governmental entity that operates qualified retirement plans for its employees. The Foundation agrees to any future amendments and other actions that may be reasonably required, including but not limited to terminating the plan, if operation of the plan jeopardizes the qualified status of the Town's retirement plans.
8. The Foundation will determine and notify the Town in writing the dollar amount to be contributed to the plan by the Foundation for each year or allocation period. The amount deposited may vary from year to year, as determined by the Foundation in its sole discretion. Once deposited into the plan, the amount will be allocated to the accounts of eligible police and fire employees based on a percentage of eligible compensation earned by such employees during the specified allocation period, in accordance with the terms of the plan.
9. After the plan has been in effect for 6 years, the Town may decline a contribution by notifying the Foundation in writing within 10 business days following receipt of a contribution notice from the Foundation. If the Town declines a contribution, no contribution will be made by Foundation for that year or allocation period and no allocations will be made to employee accounts for that period. Prior and future contributions would not be affected.
10. The Town agrees it will not reduce other compensation and benefits of plan participants on account of allocations made under the plan, except as required by law.
11. The Town consents to and approves the terms of the plan (set forth in the plan document attached to the agreement).
12. The Town and the Foundation mutually agree that, to fulfill their duties and obligations under the agreement, each party must rely on oral and written representations of the other party, and both parties agree to hold the other party harmless from and against any loss or damage to the plan, the Town or the Foundation due to their good faith reliance on these oral or written representations.
13. The Town and the Foundation mutually agree to indemnify and hold harmless the other party from and against all claims arising from the first party's duties and obligations under the agreement and plan, to the extent not caused by the other party's negligence, willful misconduct and fraud.
14. The Foundation agrees to comply with applicable provisions of the Florida Public Records Act.

**Tax-Qualified Retirement Plan
Adoption/Participation Agreement**

by and between

Town of Palm Beach

and

The Palm Beach First Responders Foundation Inc.

This AGREEMENT ("Agreement"), effective as of December 31, 2021 (the "Effective Date"), by and between the Town of Palm Beach, Florida ("Town"), with a principal office at 360 South County Road, Palm Beach, FL 33480, and The Palm Beach First Responders Foundation, Inc. ("Foundation") with a principal office at 139 North Country Road, Suite 20C, Palm Beach, Florida 33480, addresses the establishment and operation of a new tax-qualified retirement plan in respect of certain Town employees.

RECITALS

WHEREAS, the Town employs a certain number of employees classified by the Town as members of the Town's Police and Fire Departments ("Police and Fire Employees");

WHEREAS, the Town provides its Police and Fire Employees with compensation and the opportunity to participate in a suite of employee benefits, as amended from time to time, including retirement benefits provided through and in connection with certain tax-qualified retirement plans sponsored by the Town ("Town Retirement Plans");

WHEREAS, the Foundation was established as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, for a number of purposes, including that it works to support the Town's efforts to recruit and retain qualified Police and Fire Employees by providing emergency assistance, scholarships, equipment, and training, among other things;

WHEREAS, the Town and the Foundation desire that the Foundation provide support in connection with the provision of additional tax-qualified retirement benefits for certain Police and Fire Employees;

WHEREAS, the Town hereby agrees, consents to and approves the establishment and operation of The Palm Beach First Responders Foundation, Inc. Sponsored Retirement Plan for the benefit of the Town of Palm Beach Police Department and Fire Department Employees ("Plan") by the Foundation, for the purpose of providing certain additional tax-qualified retirement benefits to certain Police and Fire Employees, as set forth in the Plan document;

WHEREAS, the Town acknowledges that the Foundation's provision of tax qualified retirement benefits to Police and Fire Employees will support the Town's efforts to recruit and retain these employees, and therefore fulfills a public purpose;

WHEREAS, the Town and Foundation, as applicable, agree to the provisions of the Plan document and each assumes certain responsibility and liability under the Plan, as set forth herein, in the Plan document, or as otherwise provided by applicable law; and

WHEREAS, the Town and Foundation desire to memorialize their agreement regarding the Plan, as provided in this Agreement and the terms of the Plan document.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Agreement, the Town and the Foundation (the "Party" or "Parties" as appropriate) hereby agree to the following:

- A. **Term of Agreement.** This Agreement shall be effective beginning on the Effective Date and shall remain in effect until terminated by either Party by providing the other Party with at least 30 days' written notice of

termination. Termination of the Agreement shall not, in and of itself, affect the operation of the Plan, provided that no further contributions shall be made to the Plan following termination of the Agreement. Notwithstanding the foregoing, the Town agrees not to terminate the Agreement during the period beginning on the Effective Date and ending on the sixth anniversary of such date, except in the event of "Cause," which is defined as a finding by a federal or state agency or a court of competent jurisdiction that the Foundation has been negligent in administering the Plan.

- B. General Responsibilities of the Foundation. The Foundation shall act as the Plan sponsor, execute the Plan document and be responsible for the funding, administration and operation of the Plan, in accordance with the terms of the Plan, as amended from time to time. Within 90 days following the end of each Plan year the Foundation shall provide a report to the Town reflecting the total contributions made to the Plan and the allocations made to each participant's account during the Plan year, together with the accumulated balance in each participant's account at the beginning and end of the Plan year.
- C. General Responsibilities of the Town. The Town shall provide to the Foundation information related to the compensation and benefits of Police and Fire Employees as necessary for the establishment, funding and operation of the Plan by the Foundation. Notwithstanding the foregoing, the Town will not release to the Foundation any Town records deemed confidential and exempt from disclosure under Chapter 119, *Florida Statutes*, provided that the Town will notify the Foundation in writing if such unreleased information cannot be disclosed. In such event, the Town shall cooperate with Foundation in the Foundation's efforts to collect such information.
- D. Amendment/Termination.
1. The Foundation shall have the exclusive right to amend and/or terminate the Plan at any time, provided that no amendment or resolution to terminate the Plan shall be effective prior to the date that is 60 days following the date the Foundation notifies the Town in writing of the amendment or the resolution to terminate the Plan; and provided further that such notice period shall be waived to the extent necessary in respect of a Plan amendment required for the Plan to maintain its compliance under applicable law. Notwithstanding the foregoing, an amendment to the Plan that impacts the administration or costs of the Town Retirement Plans, other than an amendment to the Plan required by applicable law, shall require the consent of the Town.
 2. The Town acknowledges the importance of the Foundation's tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code ("Tax Exempt Status"), and Town agrees to execute any amendments to this Agreement and to take such other or further actions reasonably required to preserve the Foundation's tax exempt status, provided the same do not materially increase the costs and risks, or materially reduce the rights and benefits of Town hereunder. If, as a result of a change in law or regulation or judicial or administrative decision or interpretation, the performance by Foundation of any provision of this Agreement should, as reasonably determined in good faith by Foundation, jeopardize the Foundation's Tax-Exempt Status, or constitute a violation or threatened violation of any statute, regulation, or ordinance, the Foundation may request that this Agreement be renegotiated to eliminate the jeopardy and, if agreement is not reached within sixty (60) days after such renegotiation commences, then the Foundation may terminate this Agreement on notice in writing to Town; provided, however, that in the event of any such termination, the parties may seek to find alternative means to carry out the objectives of this Agreement.
 3. The Foundation acknowledges that the Town is a governmental entity that operates qualified retirement plans for its employees. The Foundation agrees to execute any amendments to the Agreement and to take such other or further actions reasonably required, including but not limited to terminating the Plan, if operation of the Plan jeopardizes the qualified status of the Town's retirement plans.
- E. Plan Document. The Town hereby consents to and, to the extent necessary, approves the terms of the Plan, substantially in the form attached hereto as Exhibit A.

F. Plan Allocations – Foundation Action. The Foundation may, from time to time, specify in writing to the Town (the “Contribution Notice”) a dollar amount (a “Proposed Lump Sum Retirement Amount”), if any, that is available to be deposited into the Plan by the Foundation, such amount to be determined by the Foundation in its sole discretion, subject to the following:

1. The specification of a Proposed Lump Sum Retirement Amount by the Foundation for one period shall have no bearing on whether a Proposed Lump Sum Retirement Amount shall be made by the Foundation for any other period, whether at the same or similar level or at all.
2. The Proposed Lump Sum Retirement Amount, once deposited into the Plan in accordance with Section G below, shall be allocated to the accounts of eligible Police and Fire Employees in respect of eligible compensation earned by such First Responders during a specified allocation period, such period to be proposed by the Foundation in the Contribution Notice, in its sole discretion, in accordance with the terms of the Plan.
3. The Proposed Lump Sum Retirement Amount, once deposited into the Plan in accordance with Section G below, shall be allocated to eligible Police and Fire Employees pursuant to the allocation formula under the Plan, subject to any further advice and counsel the Foundation may receive from its Plan advisors, as provided from time to time, as necessary or advisable to maintain the tax-qualified status of the Plan.
4. The Foundation shall be required to provide the funding for each Proposed Lump Sum Retirement Amount that is deposited into the Plan.
5. Any Contribution Notice by the Foundation to the Town shall specify the amount and allocation methodology of the Proposed Lump Sum Retirement Amount, either directly or by reference to the Plan document.
6. Any Contribution Notice by the Foundation to the Town shall be provided by the Foundation to the Town by email and verified with overnight mail.

G. Plan Allocations – Town Action. The Town hereby authorizes the Foundation to deposit any and all Proposed Lump Sum Retirement Amounts to the Plan, and to allocate the Proposed Lump Sum Retirement Amounts as provided by the foregoing provisions of this Agreement and the terms of the Plan, except as provided below.

1. Notwithstanding the foregoing, the Town may provide a written notice to the Foundation in response to its receipt of a Contribution Notice, within ten (10) business days from the date the Town receives such Contribution Notice, instructing the Foundation to not deposit the Proposed Lump Sum Retirement Amount to the Plan (a “Retirement Plan Declination Notice”).
2. The Town shall have the right to issue a timely Retirement Plan Declination Notice to the Foundation for any reason or no reason whatsoever, as determined by the Town in its sole discretion.
3. Any Retirement Plan Declination Notice provided by the Town to the Foundation shall only be effective insofar as a limited instruction to the Foundation to not deposit the Proposed Lump Sum Retirement Amount into the Plan at that time, in which case: (i) the Foundation shall not make such deposit to the Plan; (ii) the Proposed Lump Sum Retirement Amount shall be null and void; (iii) Plan participants shall have no right to share in any such Proposed Lump Sum Retirement Amount; (iv) any related funding to the Proposed Lump Sum Retirement Amount shall remain the exclusive property of the Foundation, without any obligation on the Foundation to specify any Proposed Lump Sum Retirement Amount in the future and (v) the Town shall, as before, have no rights in respect of directing, claiming or controlling such Proposed Lump Sum Retirement Amount, in any respect. The Plan shall remain in existence in all other respects. Further, the Town’s issuance of a Retirement Plan Declination Notice in respect of any Proposed Lump Sum Retirement Amount shall not (i) affect in any way prior contributions previously allocated to Plan participant account amounts, whether or not fully vested, under the Plan pursuant to this Agreement; nor shall (ii) it be deemed a discontinuance of future contributions under the Plan, which remain subject to the terms of this Agreement.

4. The Town shall have the right to waive its right to issue a Declination Notice in respect of a Proposed Lump Retirement Amount prior to the expiration of the notice period provided herein.
5. The Foundation may make deposit of the Proposed Lump Sum Retirement Amount to the Plan upon the earlier of: (i) the expiration of the notice period within which the Town could issue a timely Retirement Plan Declination Notice; or (ii) the date upon which the Town waives its right to issue a Retirement Plan Declination Notice in respect of a Proposed Lump Retirement Amount.
6. The failure of the Town to issue a timely Retirement Plan Declination Notice to the Foundation in response to a Contribution Notice, or its waiver of its right to issue a Retirement Plan Declination Notice, as applicable, shall be conclusive evidence of the Town's review, approval and consent to the Proposed Lump Sum Retirement Amount and deposit and allocation of same, as if and to the same extent that the Town itself affirmatively made, funded and approved the contribution to the Plan, to the extent necessary under the terms of the Plan and applicable law.
7. Any Retirement Plan Declination Notice by the Town to the Foundation, or the Town's waiver of its right to issue such notice in respect of a Proposed Lump Retirement Amount, shall be provided by the Town to the Foundation by email and verified with overnight mail.
8. The Town hereby agrees to waive its right to issue a Retirement Plan Declination Notice in respect of any Proposed Lump Sum Retirement Amount, during the period beginning on the Effective Date and ending on the sixth anniversary of such date.

H. Representations of the Town. The Town hereby warrants and represents that:

1. It acknowledges that the Foundation has established the Plan, for the purpose of providing tax-qualified retirement benefits for certain First Responders as set forth in the Plan document.
2. It has reviewed the Plan document and approved of its design.
3. It acknowledges that the Foundation (and not the Town) is acting as the Plan Sponsor and the Plan Administrator, as defined under the Plan, with the authority to control the operation and administration of the Plan, including investment fund selection and oversight, plan interpretation, reporting, and disclosures, provided that the Foundation may delegate certain Plan responsibilities to other third parties.
4. It will provide the Foundation with any and all information and data (including compensation information; date of hire; date of termination) requested by the Foundation that is reasonably required to administer the Plan.
5. It remains exclusively responsible for the coordination of any allocations under this Plan with allocations under any other Town Retirement Plan and it will include, to the extent required by law, Plan allocations together with other allocations under the Town Retirement Plans.
6. It will not reduce other compensation and benefits of Plan participants on account of allocations made under the Plan, except as required by law.

I. Indemnification/ Limitation of Liability. The following shall apply throughout the term of this Agreement and shall survive termination or expiration of this Agreement.

1. Reliance on Representations of Others.

- a. The Town acknowledges and agrees that, in order to fulfill its duties under this Agreement, the Foundation must rely on oral or written representations of the Town's officers and employees, participants in the Plan, and any agents, and providers of services to the Plan and has no duty to verify or independently audit such information. The Town agrees to hold harmless the Foundation and its directors, officers and employees from and against any loss or damage to the Plan, the Town or the Foundation due to its good faith reliance on these oral or written representations.
- b. The Foundation acknowledges and agrees that, in order to fulfill its duties under this Agreement, the Town must rely on oral or written representations of the Foundation's

officers and employees, and any agents and providers of services to the Foundation and Plan, and has no duty to verify or independently audit such information. Nothing in this section H shall constitute a waiver of Town's rights under Section 768.28, *Florida Statutes*.

2. **Mutual Indemnification.** The Town agrees to indemnify and hold harmless the Foundation and its directors, officers, employees, affiliates, and agents (Collectively "Foundation Parties") from and against all claims, liabilities, lawsuits, settlements, judgments, damages, costs, fines, penalties, and expenses, including attorneys' fees and costs, which are or may be incurred by an Foundation Party arising out of or in connection with (i) the Town's duties and obligations under this Agreement, or (ii) the establishment, adoption, and administration of the Plan, to the extent not directly caused by the Foundation's negligence, willful misconduct, and fraud A Foundation Party may retain, at its own expense, an attorney of its choice to represent it in any action described above without impairing in any way the indemnification contained in this section. Foundation agrees to indemnify and hold harmless the Town from and against all claims, liabilities, lawsuits, settlements, judgments, damages, costs, fines, penalties, and expenses, including attorneys' fees and costs, which are or may be incurred by the Town arising out of or in connection with i) the Foundation's duties and obligations under this Agreement or (ii) the establishment, adoption, and administration of the Plan, to the extent not directly caused by the Town's negligence, willful misconduct, and fraud.
 3. **Limitation of Liability.** Neither the Foundation nor the Town shall be liable, under any circumstances, for any indirect, special, consequential, punitive or exemplary damages, or similar damages arising out of or relating to this Agreement, the Plan, or the relationship of the Parties under this Agreement.
- J. **Notices.** All notices, requests, and other communications shall be in writing and mailed, postage prepaid, to the other Party at the addresses set forth in the first paragraph of this Agreement. All notices pursuant to this Agreement shall be effective and deemed received upon the earlier of actual receipt by an officer of the Party to whom the notice is addressed or three days after the notice is either deposited in first class mail or mailed by certified or registered mail, postage prepaid. Any documents, certificates, termination notice or other written communications will be delivered promptly to the policyholders' upon request and instructions of the Town. Additionally, notice via email may be provided by the Foundation to the Town, provided such notice is provided to an email address previously verified by the Town as pertaining to the subject matter discussed herein.
- K. **Independence.** In performing its obligations hereunder, the Foundation, its directors, officers, employees, and agents shall be deemed to be acting as an independent contractor. Neither the Foundation, its directors, officers, employees, and agents, nor the Town shall have the power or authority to act for or on behalf of or to bind the other Party, except as otherwise set forth herein. Furthermore, the Parties acknowledge and agree that neither this Agreement or the Plan is intended to create, and shall not create, an employment relationship between the Foundation and any First Responder or any other employee of the Town and the Town shall not represent that such a relationship may exist.
- L. **Waiver.** Failure to enforce any provision of this Agreement does not alter or waive the provision or affect the future enforceability of the provision.
- M. **Governing Law.** This Agreement shall be construed and governed in accordance with applicable federal law. To the extent such federal law does not govern, this Agreement shall be governed by the laws of the State of Florida, without regard to its conflicts of laws provisions, and the courts in such state shall have sole and exclusive jurisdiction of any dispute related hereto or arising hereunder. Venue shall be in Palm Beach County.

- N. Third Party Beneficiaries. This Agreement shall not confer any rights, remedies, claims or obligations on third parties except as expressly provided herein.
- O. Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes any and all prior or contemporaneous oral or written communications or proposals not expressly included herein. This Agreement may be amended only by writing signed by duly authorized representatives of both Parties. By executing this Agreement, both Parties acknowledge and agree that they have reviewed all terms and conditions incorporated herein and intends to be legally bound by the same.
- P. Severability. The invalidity of any provision of this Agreement shall not impair the validity of any other provision. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, that provision will be deemed severable and the Agreement will be enforced with that provision severed or as modified by the court; provided, however, that if such severance or modification has or will have a material adverse effect on either Party, the Party so affected shall have the right to terminate this Agreement upon at least 30 days' prior written notice to the other Party.
- Q. Public Records. In accordance with the Florida Public Records Act (Fla. Stat. § 119.0701), the Foundation shall:
1. Keep and maintain public records required by the Foundation to perform the service.
 2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Foundation does not transfer the records to the Town.
 4. Upon completion of the contract, transfer, at no cost, to the Town all public records in possession of the Foundation or keep and maintain public records required by the Town to perform the service. If the Foundation transfers all public records to the Town upon completion of the contract, the Foundation shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Foundation keeps and maintains public records upon completion of the contract, the Foundation shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

IF THE FOUNDATION HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS BY EMAIL AT qnieves@townofpalmbeach.com; BY TELEPHONE AT (561) 838-5416 ; OR BY MAIL AT TOWN CLERK, 360 S. COUNTY ROAD, PALM BEACH, FL 33480

AGREED by the parties through their undersigned representatives.

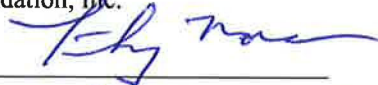
Town of Palm Beach, Florida

By: _____

Its: _____

Date: _____

The Palm Beach First Responders Foundation, Inc.

By:  _____

Its: Timothy Moran, 2nd VP

Date: December 30, 2021

**The Palm Beach First Responders Foundation, Inc. Sponsored Retirement Plan for the
benefit of the Town of Palm Beach Police Department and Fire Department Employees
(effective as of January 1, 2021)**

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ARTICLE I
ESTABLISHMENT OF THE PLAN

The Plan is maintained for the exclusive benefit of Eligible Employees, in order to help them plan for their retirement. The Plan provides for discretionary Non-Elective Contributions only. Employees cannot defer their own Compensation into the Plan. Plan benefits are distributable to Participants following their Termination of Employment. The Plan does not allow loans or hardship distributions.

ARTICLE II

DEFINITIONS

Account means the individual bookkeeping account established for each Participant, Member or Beneficiary that represents his total interest under the Plan and which may consist of various subaccounts, as provided in Section 6.1.

Beneficiary means the person or persons (including a trust) designated by a Participant or Member to receive benefits under the Plan upon the death of the Participant or Member. Each Eligible Employee, upon becoming a Participant, may designate a Beneficiary. The designation may be changed from time to time without the consent of any previously designated Beneficiary, except as provided below, by filing a new designation with the Plan Administrator. Each Beneficiary designation filed with the Plan Administrator cancels all Beneficiary designations previously filed with it by that Participant or Member. Each designation must be on a form prescribed by the Plan Administrator, may include contingent or successive Beneficiaries and becomes effective upon receipt by the Plan Administrator. The interest of any Beneficiary ceases upon the Beneficiary's death. Any payment to a Beneficiary is subject to the provisions set forth in Appendix B.

Any Beneficiary designation that causes any person other than the Participant's or Member's surviving spouse to be a primary Beneficiary is valid only if the Participant's or Member's spouse consents in writing to the designation (acknowledging the effect of the designation) and the consent is witnessed by the Plan Administrator or a notary public. A consent is not required if the Participant or Member does not have a spouse, the spouse cannot be located or for other reasons permitted by regulation. The requirements of this paragraph may be waived if it is established to the satisfaction of the Plan Administrator that the consent cannot be obtained because there is no spouse or because the spouse cannot be located or because of other circumstances as may be prescribed by regulation.

Board means the Board of Directors of the Plan Sponsor.

Break in Service means a consecutive 12-month period during which an Eligible Employee is not employed by, or in the service of the Employer. An Employee is not deemed to have incurred a Break in Service if he is on a leave of absence under the Family and Medical Leave Act and returns to employment within the time period prescribed by law. Absences for

military service, sick leave, maternity leave, vacation leave or other special leave approved in writing by the Employer which does not exceed twenty-four (24) months, are not deemed a Break in Service, provided the Participant returns to employment with the Employer no later than the expiration of the authorized leave of absence or, in the case of military leave, within the period during which employment rights are protected by law. A Participant who fails to return to employment following an approved leave of absence, is deemed to have terminated employment as of the commencement of the absence or leave.

Code means the Internal Revenue Code of 1986, as amended. Reference to a specific Section of the Code includes that Section, any valid regulation promulgated thereunder, and any comparable provision of any future legislation amending supplementing or superseding that Section.

Committee means the Benefits Committee appointed by the Board, or its delegate, to administer the Plan in accordance with the provisions of ARTICLE X.

Compensation means wages for federal income tax withholding purposes, as defined under Section 3401(a) of the Code, plus all other payments to an Employee in the course of the Employer's trade or business, for which the Employer must furnish the Employee a written statement under Sections 6041, 6051, and 6052 of the Code, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or services performed. Compensation excludes all amounts other than base pay, as determined in the discretion of the Plan Administrator, and such exclusions shall include, but are not limited to, overtime, bonuses and shift premiums. Compensation includes elective deferrals and any amount which is contributed by the Employer pursuant to a salary reduction agreement, which is not includible in the gross income of the Participant under Sections 125, 132(f)(4), 401(k), 402(e)(3), 402(h)(1)(B), 403(b) or 457(b) of the Code. The total amount of a Participant's Compensation taken into account for any Plan Year must not exceed the applicable annual compensation limitation in effect under Section 401(a)(17) of the Code, as adjusted from time to time. If more than one Employer employs an Eligible Employee, Compensation includes the aggregate Compensation received from all Employers during that Plan Year.

For purposes of ARTICLE IV (“Contributions”), Compensation includes Compensation earned during the entire Plan Year in which a Participant becomes eligible for Contributions in accordance with Section 3.1.

Contributions or **Non-Elective Contributions** means the discretionary employer contributions made to the Plan on behalf of Eligible Employees in accordance with the Participating Employer Agreement and ARTICLE IV.

Effective Date means January 1, 2021.

Eligible Employee means any Employee of the Employer classified by the Employer as an employee of the Palm Beach Police Department or the Palm Beach Fire Department; other than the following individuals:

(a) Individuals who are participating in the Deferred Retirement Option Program under the Town of Palm Beach Employees Retirement System as classified by the Employer, in its sole discretion, and reported to the Plan Administrator;

(b) Covered under a collective bargaining agreement, except where such collective bargaining agreement provides for coverage under this Plan and such Employee has satisfied all conditions necessary to obtain coverage under this Plan in accordance with such agreement as reported to the Plan Administrator by the Employer (for sake of clarity, Eligible Employees include those Employees who are covered under the Collective Bargaining Agreement between the Town of Palm Beach and the Professional Firefighters/Paramedics Palm Beach County, Local 2928 (Non-Supervisory Unit) and who have satisfied all conditions necessary to obtain coverage under this Plan in accordance with such agreement as reported to the Plan Administrator by the Employer), in accordance with ARTICLE III;

(c) A nonresident alien under the United States immigration law who receives no earned income (within the meaning of Section 911(d)(2) of the Code) from the Employer which constitutes income from sources within the United States (within the meaning of Section 861(a)(3) of the Code); and

(d) An individual who, as to any period to time, is classified or treated by the Employer as an independent contractor, seasonal employee, Leased Employee, consultant, or any other individual who is paid by a payroll system maintained by any entity other than the

Employer, even if the individual is later retroactively determined to have been a common law employee of the Employer during the period.

Employee means an individual employed by the Employer who has attained age 18.

Employer means the Town of Palm Beach, Florida, an incorporated town in Palm Beach County, Florida.

Employment Commencement Date means the day on which an Employee first performs an Hour of Service for the Employer.

Entry Date means the first payroll period following the date on which an Employee satisfies the eligibility requirements under Section 3.1 of the Plan.

Hour of Service means, in respect of the Employer and any entity that forms a controlled group with the Employer under Code Section 414(b), (c), (m) and (o):

(a) The actual hours for which an Employee is paid or entitled to be paid for the performance of duties, and each hour for which back pay, irrespective of mitigation of damages, the Employee is granted; and

(b) Each hour for which an Employee is paid or entitled to be paid on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity, disability, layoff, jury duty, military duty or leave of absence; provided that no credit is given for payments made or due under a plan maintained solely for the purpose of complying with applicable workmen's or unemployment compensation or disability insurance laws or for payments which solely reimburse an Employee for medical or medically related expenses incurred by the Employee and further provides that no more than 501 Hours of Service is credited on account of any single continuous period during which no duties are performed.

(c) Solely for purposes of determining whether a Break in Service has occurred, an Employee is credited with service for any period during which the Employee is absent from employment by reason of (i) pregnancy of the Employee, (ii) birth of a child of the Employee, (iii) placement of a child in connection with the adoption of the child by an Employee (iv) caring for the child during the period immediately following the birth or placement for

adoption or (v) on account of a leave of absence taken pursuant to the Family Medical Leave Act of 1993.

(d) A Participant on a military leave of absence is credited with Hours of Service as required by Section 9 of the Military Selective Service Act and the Uniformed Services Employment and Reemployment Rights Act of 1994.

(e) Notwithstanding the above, the Plan Administrator may elect for all Employees or for one or more different classifications of Employees (provided such classifications are reasonable, are consistently applied, and are nondiscriminatory) to apply one or more of the following equivalency methods in determining an Employee's Hours of Service. Under the equivalency methods, an Employee will be credited with (1) 190 Hours of Service for each month that he is credited with at least one Hour of Service during that month; (2) 95 Hours of Service for each semi-monthly period that he is credited with at least one Hour of Service during that semi-monthly period; (3) 45 Hours of Service for each week that he is credited with at least one Hour of Service during that week; and/or (4) 10 Hours of Service for each day that he is credited with at least one Hour of Service during that day.

Highly Compensated Employee means effective January 1, 1997, an Employee who:

(f) Was a five percent (5%) owner of the Employer at any time during the Determination Year or the Look-Back Year; or

(g) For the Look-Back Year, received Compensation from an Employer or Affiliate in excess of \$130,000 (in the 2020 Look-Back Year, for purposes of the 2021 Determination Year), as adjusted pursuant to Section 415(d) of the Code or as otherwise adjusted by IRS guidance or legislation.

For this purpose, the "Determination Year" is the Plan Year. The "Look Back Year" is the twelve (12) month period immediately preceding the Determination Year. A "Non-Highly Compensated Employee" is any Employee who is not a Highly Compensated Employee. The determination of who is a Highly Compensated Employee is made in accordance with Section 414(q) of the Code and the regulations promulgated thereunder.

Investment Fund means the investment funds designated from time to time by the Plan Administrator, as available, for the investment of all Accounts.

Leased Employee means any person who is not designated as an Employee of the Employer and who provides services to the Employer, where:

- (a) The services are provided pursuant to an agreement between the Employer and any leasing organization;
- (b) The person has performed the services for the on a substantially full-time basis for a period of at least one year; and
- (c) The services are performed under the primary direction or control of the Employer.

Contributions or benefits provided to a Leased Employee by the leasing organization that are attributable to services performed for the recipient Employer is treated as provided by the Employer, but only to the extent required by applicable law.

Limitation Year means the Plan Year.

Member means a person whose active participation in the Plan has terminated by reason of death, disability, retirement, or any other reason, but who still has an interest in the Plan.

Normal Retirement Age means the date upon which a Participant attains the age of sixty-five (65).

Participant means an Eligible Employee who has been admitted as a Participant in the Plan under ARTICLE III.

Participating Employer Agreement means an agreement between the Plan Sponsor and Employer pursuant to which the Employer has approved the establishment and operation of the Plan and under which the Plan shall be maintained by the Plan Sponsor on behalf of the Eligible Employees. All Contributions shall be made in accordance with the Participating Employer Agreement and the terms of the Plan.

Period of Service means the period that begins on the later of (i) an Employee's Employment Commencement Date, and (ii) the Effective Date, and ends on his Termination of Employment.

Period of Severance means the period which begins on an Employee's Termination of Employment and ends when he again completes an Hour of Service with the Employer. A one-

year Period of Severance is determined on the basis of a twelve-consecutive-month period beginning on the severance from Service date and ending on the first anniversary of such date, provided that the employee during such twelve-consecutive-month period does not perform an hour of service within the meaning of 29 C.F.R. 2530.200b-2(a)(1) for the employer or employers maintaining the Plan.

In the case of an individual who is absent from work for parental leave, the twelve-consecutive-month period beginning on the first anniversary of the first day of such absence shall not constitute a Break in Service. For purposes of this paragraph, an absence from work for parental leave means an absence (a) by reason of the pregnancy of the individual, (b) by reason of the birth of a child of the individual, (c) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

Plan means The Palm Beach First Responders Foundation, Inc. Sponsored Retirement Plan for the benefit of the Town of Palm Beach Police Department and Fire Department Employees, as set forth in this instrument and which may be amended from time to time.

Plan Administrator means the person, persons, corporation, committee, group or organization designated by the Plan Sponsor to be the Plan Administrator and to perform the duties of the Plan Administrator. In the absence of a designation, the Plan Sponsor will serve as the Plan Administrator and in such a case, all references herein to the Plan Administrator is deemed a reference to the Plan Sponsor. As of the Effective Date of the Plan, the Committee described in Section 10.1 has been appointed by the Board as the Plan Administrator and all references herein to the Plan Administrator is deemed a reference to any duly appointed delegate of the Plan Administrator.

Plan Sponsor means Palm Beach First Responders Foundation, Inc., a Florida tax-exempt organization, and any successor by merger, consolidation or otherwise that assumes the obligations of the Plan Sponsor under the Plan.

Plan Year means the calendar year.

Reemployment Commencement Date means the first date, following a Period of Severance that is not required to be taken into account under the service spanning rules of the Code, on which the Employee again performs an Hour of Service.

Termination of Employment means the date on which a person resigns, retires, dies or is discharged as an Employee (or the date on which he otherwise has a severance from employment), or otherwise has a severance of service, and is not immediately reemployed by the Employer.

Total and Permanent Disability means any physical or mental disability for which the Participant is determined by the Social Security Administration to be eligible for disability benefits under the Social Security Act.

Trust means the trust established and maintained under the agreement entered into by and between the Plan Sponsor and the Trustee for the purpose of holding the assets of and funding the benefits provided by the Plan.

Trustee means the Trustee under the Trust as may be designated from time to time by the Board.

Valuation Date means each business day that the New York Stock Exchange is open for business, or other date(s) selected by the Plan Administrator.

Year of Service means the computation period of twelve (12) consecutive months during which an Employee has completed at least 1,000 Hours of Service.

For purposes of eligibility for participation, the initial computation period shall begin with the Employment Commencement Date. The succeeding computation periods shall begin on the anniversary of the Employee's Employment Commencement Date.

ARTICLE III

ELIGIBILITY

3.1. Participation.

An Eligible Employee will become a Participant on the first Entry Date coincident with or next following his completion of one Year of Service with respect to being eligible to receive an allocation of Contributions under ARTICLE IV.

3.2. Cessation of Participation.

An Eligible Employee ceases to be a Participant with respect to being eligible for Contributions, upon the earliest of: (i) the date on which his employment with the Employer terminates for any reason; or (ii) the date on which he ceases to be an Eligible Employee. An affected individual will remain a Member of the Plan, in accordance with the remaining provisions of the Plan.

3.3. Reemployment.

(a) An Eligible Employee who satisfies the requirements of Section 3.1 and becomes a Participant, who then experiences a Termination of Employment, and, following his Termination of Employment, again becomes an Eligible Employee of the Employer, will be reinstated as a Participant as soon as practicable following his date of reemployment.

(b) An Eligible Employee who satisfies the requirements of Section 3.1, who experiences a Termination of Employment prior to the Entry Date subsequent to his satisfaction of the requirements, and who subsequently again becomes an Eligible Employee, will be reinstated as a Participant with respect to being eligible to receive allocations of Contributions as of the first Entry Date following his reemployment.

(c) Any Eligible Employee who failed to satisfy the requirements of Section 3.1 at the time of his initial Termination of Employment, will upon reemployment, be considered a new Eligible Employee and will be required to satisfy the requirements of Section 3.1 to become a Participant in the Plan.

3.4. Forfeiture of Erroneous Allocations.

Notwithstanding any contrary provision of the Plan, if in any Plan Year, any person who should not have been included as a Participant in the Plan is erroneously included or any other erroneous allocation is made, the amount of the erroneous allocation shall constitute a forfeiture for the Plan Year in which the discovery is made.

ARTICLE IV

CONTRIBUTIONS

4.1. Participating Employer Agreement

All Contributions shall be made to the Plan in accordance with the Participating Employer Agreement.

4.2. Allocation.

(a) In order to share in the allocation of Contributions, if any, a Participant must complete 1,000 Hours of Service during the Plan Year and be employed by the Employer on the last day of the Plan Year (or be on a leave of absence under the Family and Medical Leave Act), or have Terminated during the Plan Year due to death or Total and Permanent Disability prior to the last day of the Plan Year.

(b) Following the last day of each Plan Year, the Plan Sponsor shall determine the level, if any, at which Contributions may be made to the Plan in respect of such Plan Year, in accordance with the terms of the Participating Employer Agreement. Upon deposit of any Contributions to the Plan for such Plan Year, the Plan Administrator shall allocate the total amount of such Contributions to eligible Participants, as determined in accordance with Section 4.2(a) above and the following:

(1) Participants who are eligible for an allocation of Contributions, if any, for such Plan Year, shall be segregated into separate benefitting classes, such that all Eligible Employees who are Non-Highly Compensated Employees in respect of such Plan Year shall be a single class, and each Highly Compensated Employee in respect of such Plan Year shall be deemed to be a separate class per person, with the total number of classes for such Plan Year equal to the total number of Highly Compensated Employees for such Plan Year plus one;

(2) The total number of classes eligible to share in the Contributions for the Plan Year shall be determined by the Plan Administrator in accordance with the terms of the Participating Employer Agreement and any applicable nondiscrimination testing, as determined by the Plan Administrator, such that the Non-Highly Compensated Employee class shall benefit and all or only a certain number of classes of Highly Compensated Employees shall be benefitting (i.e., some classes of Highly Compensated Employees, including those earning

above a certain threshold, may be designated as non-benefitting, receiving no contribution for the Plan Year); and

(3) Such Contributions shall be allocated on a uniform percentage of Compensation basis to the Non-Highly Compensated Employee class and the specified number of Highly Compensated Employee benefitting classes, as determined above.

Notwithstanding the foregoing, all Contributions (if any) are made by the Plan Sponsor, in its sole discretion, pursuant to the terms of the Participating Employer Agreement.

(c) Contributions will be made in cash. Contributions in respect of Compensation for a Plan Year may be made at any time on or before December 31st of the Plan Year following the Plan Year to which the Contributions relate.

(d) Contributions shall be credited to the Account of each Participant entitled to share in such Contributions.

(e) Any Contribution made by reason of a good faith mistake of fact must upon the request of the Plan Sponsor, be returned by the Trustee to the Plan Sponsor. The Plan Sponsor's request and the return of any the contribution must be made within one year after the contribution was mistakenly made. The amount to be returned to the Plan Sponsor pursuant to this paragraph is the excess of: (i) the amount contributed over (ii) the amount that would have been contributed had there not been a mistake of fact or a mistake in determining the maximum allowable deduction. Earnings attributable to the mistaken contribution are not returned to the Plan Sponsor, but losses attributable thereto reduce the amount to be so returned.

ARTICLE V
INVESTMENT FUNDS

5.1. Investment Funds.

In accordance with the directions of the Plan Administrator, the Trustee shall establish Investment Funds into which all Trust assets are invested. The Plan Administrator may from time to time change the number, identity or composition of the investment funds made available under the Plan and select different investment media for the investment of any investment fund in accordance with the terms of the Trust Agreement.

5.2. Investment of Contributions.

To the extent the Plan Administrator does not receive an investment election from a Participant, Member or Beneficiary, all Contributions will be invested in the default investment fund that may be designated by the Plan Administrator from time to time that constitutes a “qualified default investment alternative” or “QDIA” under the applicable Department of Labor regulations. At the time or times required by Section 404(c) of the Employee Retirement Income Security Act of 1974, as amended, and any regulations issued thereunder (“ERISA”) and the Department of Labor regulations promulgated thereunder, the Plan Administrator shall give each Participant and Member a notice of his rights and obligations under the default arrangement which is sufficiently accurate and comprehensive to apprise the Participant or Member of his rights and obligations as well as other information required by the applicable Department of Labor regulations. The Trustee shall invest and reinvest each Participant’s Account among the Investment Funds in accordance with the deemed investment elections provided by this Section 5.2, which remains in force unless and until the Trustee receives an Affirmative Election from the Participant with regard to investment direction among the Investment Fund or Funds in accordance with this Section 5.2. To the extent ERISA applies to the Plan, the Plan is intended to constitute a plan described in Section 404(c) of ERISA, and the fiduciaries of the Plan may be relieved in accordance with Section 404(c) of ERISA of liability for any losses which are the direct and necessary result of investment instructions given by a Participant or Member.

5.3. Change in Investment Designation.

A Participant, Member or Beneficiary may elect to change his designation of the Investment Fund or Funds with respect to which his allocable share of Contributions are invested. These elections must be made in the form and manner as the Plan Administrator prescribes, and may involve the use of a telephonic voice response, computer-based or similar electronic system. Any change is effective as soon as administratively practicable following the date the change is received by the Plan Administrator.

5.4. Reallocation of Investment Funds.

A Participant, Member or Beneficiary may reallocate the investment of his interest in the Investment Funds attributable to Contributions. These elections must be made in the form and manner as the Plan Administrator prescribes, and may involve the use of a telephonic voice response, computer-based or similar electronic system. Any change is effective as soon as administratively practicable following the date the change is received by the Plan Administrator.

ARTICLE VI

INDIVIDUAL ACCOUNTS

6.1. Individual Accounts.

The Plan Administrator shall establish and maintain an Account in the name of each Participant, Member or Beneficiary to which are credited, a Participant's, Member's or Beneficiary's share of Contributions; net earnings or net losses on the investments of the assets of the Trust; distributions; and any expenses or liabilities charged to a Participant's, Member's or Beneficiary's Account. The maintenance of a separate Account for each Participant, Member and Beneficiary is not intended to segregate for the Participant, Member or Beneficiary, or to give the Participant, Member or Beneficiary any ownership in, any specific assets of the Trust.

6.2. Allocation of Contributions.

(a) Any forfeiture of Contributions or other forfeitures arising under the Plan for a given Plan Year and earnings thereon must be held, separately invested and used to reduce subsequent Contributions, pay Plan expenses, or for any other purposes determined by the Plan Administrator.

(b) If it comes to the attention of the Plan Administrator that an error has been made in any of the allocations under the Plan, the Plan Administrator shall determine whether an adjustment should be made to the accounts of affected Participants and Members and the manner and extent of the adjustment.

6.3. Allocation of Earnings.

The Investment Funds must be valued at current market values as of each Valuation Date. The Plan Administrator, as of each Valuation Date, shall adjust the balances in the Accounts of all Participants, Members and Beneficiaries, to reflect contributions to and withdrawals from the Accounts, related net income earned on the Accounts, and appreciation and depreciation of, transfers to and from, and expenses charged against the Accounts since the previous Valuation Date.

ARTICLE VII
TERMINATION OF EMPLOYMENT

7.1. Normal Retirement.

Upon a Participant's attainment of Normal Retirement Age while an Eligible Employee, the entire amount credited to the Participant's Account becomes fully vested. Subject to Section 7.2 below, the Plan Administrator shall direct the Trustee to distribute to the Participant the amount credited to the Participant's Account in accordance with the provisions of ARTICLE VIII.

7.2. Postponed Retirement.

If a Participant continues to be an Employee beyond his Normal Retirement Age, any distribution to the Participant is deferred until the Participant's Termination of Employment. Until the Termination of Employment, the Participant continues to participate on the same basis as before reaching Normal Retirement Age. Upon Termination of Employment, the Plan Administrator shall direct the Trustee to distribute to the Participant the amount credited to the Participant's Account in accordance with the provisions of ARTICLE VIII.

7.3. Disability Retirement.

If a Participant suffers a Total and Permanent Disability while an Eligible Employee, the entire amount credited to the Participant's Account becomes fully vested. A distribution on account of the Participant's Total and Permanent Disability is made in accordance with ARTICLE VIII.

7.4. Termination Due to Death.

On the death of a Participant while employed by the Employer, the entire amount credited to that Participant's Account becomes fully vested. The Plan Administrator may require proof of death and evidence of the right of any person to receive payment of the benefits of the deceased Participant as it deems advisable. The Plan Administrator's determination of death and of the right of any person to receive payment is conclusive and binding on all Participants and other parties. Distributions of the Participant's account are made in accordance with the provisions of Appendix A.

In the case of a Participant who dies while performing qualified military service (as defined in Section 414(u) of the Code), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would have been provided under the Plan had the Participant resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's qualified military service as service for vesting purposes, as though the Participant had resumed employment under the Uniformed Services Employment and Reemployment Rights Act ("USERRA") immediately prior to the Participant's death."

7.5. Other Termination of Employment.

(a) Upon a Participant's Termination of Employment for any reason other than retirement, death or Total and Permanent Disability, the Participant is entitled to receive (in accordance with ARTICLE VIII) the portion of the Participant's Account attributable the vested portion, if any, of his subaccount attributable to Contributions. The remainder of the Participant's Account, if any, is forfeited as of the earlier of:

(1) the distribution of the entire vested portion of the Participant's Account; or

(2) after the Participant has incurred a five (5) year Period of Severance.

Any amounts forfeited remain forfeited even if a Participant is subsequently reemployed and readmitted as a Participant in the Plan, unless the Participant receives a distribution of the entire vested portion of the Participant's Account and is reemployed before incurring a sixty (60) consecutive month Period of Severance, in which case the amounts forfeited will be restored. However, amounts forfeited may be restored provided the Participant repays to the Plan the full amount of his distribution, if any, before the earlier of either five (5) years after the Participant's reemployment or the end of the sixty (60) consecutive month Period of Severance. If a Participant repays any amounts previously distributed, the corresponding restoration must be made out of forfeitures in the Plan Year of reemployment, and, to the extent the forfeitures are not sufficient, the Plan Sponsor shall make a special contribution to the Participant's restored Account.

(b) The vested portion of any other Participant's Account attributable to Contributions shall be a percentage of the total amount credited to the Participant's Account determined on the basis of the Participant's number of whole year Periods of Service according to the following schedule:

<u>Whole Years Periods of Service</u>	<u>Vested Percentage</u>
Less than 2	0%
2 but less than 3	20%
3 but less than 4	40%
4 but less than 5	60%
5 but less than 6	80%
6 or more	100%

(c) Upon a Participant's Termination of Employment, the Trustee shall distribute to the Participant any vested amounts in the Participant's Account, in accordance with the provisions of ARTICLE VIII. In the event that a Participant's vested interest in Contributions or in any other Account or portion thereof, that is required to be taken into account under the Code is zero upon his Termination of Employment, the Participant is deemed to have received a distribution at that time equal to zero.

(d) A Participant ceases to be a Participant as of his Termination of Employment with the Employer. However, a former Participant remains a Member of the Plan after the Termination of Employment for purposes of:

- (1) Receiving any benefit to which he may be entitled under the Plan;
- and
- (2) Exercising any rights granted hereunder in regard to the investment of his Account under the Plan.

ARTICLE VIII
PAYMENT OF BENEFITS

8.1. General.

Payment of benefits may be made in cash, in kind or by a combination of both, as determined by the Plan Administrator. Benefits under this Plan are paid only if the Plan Administrator decides, in its discretion, that the applicant is entitled to them. If the Plan Administrator determines that an overpayment of benefits has been made to a Participant, Member or Beneficiary, the Plan Administrator may take the steps it deems advisable to correct the overpayment, including seeking cash reimbursement. If the Plan Administrator determines that the burden or expense of seeking recovery for an overpayment of benefits to a Participant, Member or Beneficiary would be greater than the potential recovery warrants, it may forego recovery efforts.

8.2. Commencement of Benefits.

(a) The vested balance of a Member's Account becomes payable in the event of his Total and Permanent Disability, retirement or other Termination of Employment (other than by reason of death), as soon as administratively practicable following the date the Member's completed benefit election form is received by the Plan Administrator. Unless the Participant or Member elects otherwise, in no event will the distribution of a Participant's or Member's vested Account commence later than the 60th day after the latest of the close of the Plan Year in which (i) the Member reaches his Normal Retirement Age, (ii) the Member's Termination of Employment, or (iii) the tenth anniversary of the year in which the Member commenced participation in the Plan. Notwithstanding the foregoing, and except as provided in Appendix A, the failure of a Participant to request a distribution shall be deemed to be an election to defer commencement of any benefit sufficient to satisfy this Section.

(b) Distribution of a Member's benefits under the Plan will begin no later than the April 1st following the later of (i) the calendar year in which the Member attains 72 or (ii) retires; provided, however, that in the case of a "5% owner" (within the meaning of Section 416 of the Code), distribution will begin no later than the April 1st following the calendar year in which the Member attains 72. The distributions will be at least equal to the required minimum

distribution under Section 401(a)(9) of the Code and Treasury Regulations promulgated thereunder as set forth in Appendix A hereto.

(c) In the event of a mandatory distribution of greater than \$1,000 but equal to or less than \$5,000, if the Participant or Member does not elect to have the distribution paid directly to an eligible retirement plan specified by the Participant or Member in a direct rollover or to receive the distribution directly, then the Plan Administrator shall pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator. The Plan Administrator shall make a mandatory lump-sum distribution to a Member whose Account is valued at \$1,000 or less. Amounts attributable to rollover contributions within the meaning of Sections 402(c), 403(a)(4), 403(b)(8), 403(d)(3)(A)(ii) and 467(e)(16) of the Code are included in determining the value of a Member's account for purposes of this Section.

No distribution of a Member's Account may be made which is in excess of the maximum amount set forth under Section 411(a)(11) of the Code and Treasury Regulations promulgated thereunder (as adjusted from time to time) without the written consent of the Member. The Plan Administrator shall provide each Member who has a vested Account balance in excess of this maximum amount with a written explanation of the right to so defer distribution of benefits no less than 30 days and no later than 90 days before the date benefits commence to be paid. However, distribution of the Member's benefits may commence sooner than 30 days after the notice is given if the Plan Administrator informs the Member of his right to consider for at least 30 days whether or not to consent to the distribution and the Member, after receiving this information, waives his right to the 30-day period, provided that the distribution commences more than 7 days after the notice is provided to the Member.

8.3. Form of Payment.

Payment of a Member's vested Account are made in the form of a single lump sum amount.

8.4. Payments to Incompetents.

If the Plan Administrator determines that a Participant, Member or Beneficiary is entitled to receive any benefits under the Plan is a minor or is mentally incompetent to receive the benefits or to give a valid receipt and discharge for the benefits, the benefits may be paid to the

guardian, committee or other representative of the estate of the Participant, Member or Beneficiary that has been duly appointed by a court of competent jurisdiction. If no guardian, committee or other representative has been appointed, the payment:

(a) may be made to any person as custodian for the minor or incompetent under applicable state law; or

(b) may be made to or applied to or for the benefit of the minor or incompetent, his spouse, children or other dependents, the institution or persons maintaining him or her, or any of them, in the proportions as the Plan Administrator from time to time determines; and

The release of the person or institution receiving the payment is a valid and complete discharge of any liability of the Plan with respect to any benefit so paid.

8.5. Eligible Rollover Distribution.

Notwithstanding any provision herein to the contrary, a distribution or withdrawal at the option of a Participant, Member or surviving spouse (or a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code), may be paid at a time and manner specified by the Plan Administrator directly to (a) an individual retirement account described in Section 408(a) of the Code, (b) an individual retirement annuity plan described in Section 408(b) of the Code, (c) an annuity plan described in Section 401(a) of the Code, (d) a Roth IRA described in Section 408A of the Code, unless the distributee is a non-spouse Beneficiary of a deceased Participant, or (e) a qualified trust described in Sections 401(a), 403(b) or 457(b) of the Code, unless the distributee is a non-spouse Beneficiary of a deceased Participant.

A non-spouse Beneficiary of a deceased Participant who is either an individual or an irrevocable trust, where the beneficiaries of the trust are identifiable and the trustee provides the Plan Administrator with a final list of trust beneficiaries or a copy of the trust document by October 31 of the year following the Participant's death, is entitled to direct a distribution with regard to the interest of the deceased Participant, but only if the distribution is transferred in a direct trustee-to-trustee transfer to an individual retirement account described in Section 408(a)

of the Code or an individual retirement account described in Section 408(b) of the Code (other than an endowment contract).

8.6. Rollovers to Non-Spouse Beneficiary.

A non-spouse Beneficiary who is a “designated beneficiary” under Section 401(a)(9)(E) of the Code and the regulations thereunder, may rollover all or any portion of his distribution to an individual retirement account the Beneficiary establishes for purposes of receiving the distribution by a direct trustee-to-trustee transfer (a “Direct Rollover”). In order to be able to rollover the distribution, the distribution otherwise be made in accordance with this Section.

Although a non-spouse Beneficiary may directly rollover a distribution as provided in this Section 8.6, the distribution is not subject to the direct rollover requirements of Section 401(a)(31) of the Code, the notice requirements of Section 402(f) of the Code or the mandatory withholding requirements of Section 3405(c) of the Code. If a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for a “60-day” rollover.

If the Participant’s designated Beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Section 401(a)(9)(E) of the Code.

A non-spouse Beneficiary may not rollover an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Internal Revenue Service guidance. If the Participant dies before his required beginning date and the non-spouse Beneficiary rollover to an IRA the maximum amount eligible for rollover, the Beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. §1.401(a)(9)-3, Q&A-4(c), in determining the required minimum distribution from the IRA that receives the non-spouse Beneficiary’s distribution.

ARTICLE IX
CONTRIBUTION LIMITATIONS

9.1. Contribution Limits

(a) Except to the extent permitted under Section 414(v) of the Code, if applicable, the Annual Addition that may be contributed or allocated to a Participant's or Member's Account under the Plan for any Limitation Year must not exceed the lesser of:

(1) The amount set forth in Section 415(c)(1)(A) of the Code, as adjusted for annual increases in the cost-of-living under Section 415(d) of the Code, or

(2) 100 percent of the Participant's compensation, within the meaning of Section 415(c)(3) of the Code, for the Limitation Year (the compensation limit referred to in (2) does not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition).

(b) If the Annual Additions for a Participant would exceed the limits specified in this Section 9.1, then the Annual Additions under this Plan for that Participant must be reduced to the extent necessary to prevent the limits from being exceeded, in accordance with Section 415 of the Code and the regulations promulgated thereunder, which are hereby incorporated by reference.

(c) For purposes of applying this Section, the term Annual Addition means the sum for any Limitation Year of additions to a Participant's Accounts as a result of Contributions.

(d) Notwithstanding the foregoing, (i) any compensation described above does not fail to be compensation merely because it is paid after the Employee's Termination of Employment, provided that the payment would have been paid to the Employee prior to Termination of Employment if the Employee had continued in employment with the Employer, and further provided that the compensation is paid by the later of 2½ months after Termination of Employment or the end of the year that includes the date of Termination of Employment; and (ii) payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as defined in as defined in Section 414(u)(5) of the Code) to

the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service. Compensation shall include amounts that would otherwise be included in compensation but for an election under Sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), 403(b), 457(b) and differential wage payments (as determined under Section 414(u)(12) of the Code), to the extent applicable. A Participant's compensation for a year of service shall not include compensation in excess of the limitation under Section 401(a)(17) of the Code that is in effect for the calendar year in which such year of service begins.

ARTICLE X
ADMINISTRATION OF THE PLAN

10.1. Committee as Plan Administrator.

The Committee appointed in this Section 10.1 is the Plan Administrator. The Committee consists of three or more members. All members of the Committee may be removed at any time and for any reason at the discretion of the Board. The Committee consists of those individuals, corporations or other entities as the Board appoints from time to time. If at any time any of the positions on the Committee is vacant, the Board, or its delegate, may make interim appointments to the Committee as in their judgment is necessary to ensure effective administration of the Plan. The members of the Committee serve without bond, except as otherwise required by law, and without compensation for their services. The Committee is designated as the administrator of the Plan (within the meaning of Section 414(g) of the Code and Section 3(16)(A) of ERISA) and the named fiduciary (within the meaning of Section 402(a)(2) of ERISA).

10.2. Duties of the Committee.

The Committee shall adopt rules for the administration of the Plan as, in the opinion of the Committee, are necessary or advisable to implement and administer the Plan and to transact its business. The Committee shall undertake all duties assigned to it under the Plan. The decision of the Committee, acting in its discretion, as to any disputed question arising hereunder, including, but not limited to, questions of construction, interpretation, administration, eligibility, factual determination's about a worker's classification status, benefits and rights under the Plan is final, binding and conclusive on all parties.

10.3. Other Powers and Duties.

The Committee shall have those duties and powers as may be necessary to discharge its duties hereunder, including, but not limited to, the following:

- (a) to construe and interpret the Plan and Trust, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits hereunder;
- (b) to prescribe procedures to be followed by Participants, Members or Beneficiaries filing applications for benefits;

- (c) to prepare and distribute information explaining the Plan and Trust;
- (d) to receive from the Plan Sponsor, Employer and from Participants, Members and Beneficiaries information as is necessary for the proper administration of the Plan and Trust;
- (e) to furnish the Plan Sponsor and Employer, upon request, annual reports with respect to the administration of the Plan as are reasonable and appropriate;
- (f) to receive, review and keep on file (as it deems convenient or proper) reports of the financial condition, the receipts and disbursements and the assets of the Trust;
- (g) to appoint or employ advisors to assist in the administration of the Plan, including legal counsel and clerical, medical, accounting, auditing and other services as it may require in carrying out the provisions of the Plan;
- (h) to determine the status of qualified domestic relations orders under Section 414(p) of the Code;
- (i) to take any actions necessary to correct retroactively as may be necessary, including the exclusion of any employees who have been excluded inadvertently from participation in the Plan, the application of incorrect vesting, failures pertaining to Sections 415(b) and 401(a)(17) of the Code and any other operational failure consistent with the correction methodology set forth in IRS Rev. Proc. 2019-19 or any modification or successor thereto;
- (j) to adopt amendments to the Plan;
- (k) to select Investment Fund alternatives to be made available under the Plan and, if deemed appropriate, to select and appoint one or more investment managers to manage, acquire or dispose of any or all of the assets of the Plan, including commingling Plan assets for investment purposes with assets of other plans in a group trust fund;
- (l) to monitor and evaluate the performance of the Trustee and/or any investment manager;
- (m) to direct the Trustee in connection with the exercise of investment or asset management responsibilities under the Plan or the Trust agreement; and

(n) to approve accounts rendered from time to time by the Trustee, and to release, relieve and discharge the Trustee with respect to all matters set forth in any account, or to object to any account.

10.4. Allocation and Delegation of Responsibilities.

(a) The members of the Committee may allocate any of its duties among themselves in any mutually agreed upon manner.

(b) The Committee may delegate its duties and responsibilities under the Plan and Trust. The delegates may specifically include, but are not limited to, professional administrators, investment managers or advisers, and custodians.

(c) Notwithstanding Sections 10.4(a) and (b), any responsibilities to manage or control Plan assets (other than the power to appoint an investment manager) assigned to the Trustee by the Trust must not be allocated or delegated to anyone other than the Trustee.

10.5. Committee Accounts and Reports.

The Committee shall maintain accounts showing the fiscal transactions of the Plan. The Committee shall periodically prepare a report showing in reasonable detail the assets and liabilities of the Plan and give a brief account of the operation of the Plan. The Committee shall be responsible for filing all forms, reports and documents required by law and for providing all necessary notices to Employees and Beneficiaries, including those respecting the adoption and qualification of the Plan.

10.6. Employer to Furnish Information.

To enable the Committee to perform its functions, the Employer shall supply full and timely information to the Committee on all matters relating to the pay of all Participants and Members, their retirement, death or other cause of Termination of Employment, and other pertinent information as the Committee may request, to the extent such information is not deemed confidential and exempt from disclosure under applicable federal and state statutes.

10.7. Expenses.

All expenses of Plan administration and operation, including the fees of any agents employed and including any expenses attributable to a termination of the Plan or Trust, may be

paid by the Trust. All expenses of Plan administration and operation may be paid by the Plan Sponsor to the extent the expenses are not paid by the Trust.

10.8. Indemnification.

Pursuant to the Participating Employer Agreement, the Employer hereby agrees to indemnify each and every member of the Committee, and any employee or affiliate of the Plan Sponsor properly delegated by and acting on behalf of the Committee, for any expenses or liabilities (other than those due to willful misconduct, gross negligence or fraud) actually incurred in the performance of their duties under the Plan and Trust, provided, however, that the coverage is reduced to the extent of any insurance coverage.

10.9. Domestic Relations Orders.

(a) If the Plan receives a Domestic Relations Order, the Plan Administrator shall promptly notify the Participant (or Member) and any Alternate Payee specified in the Order of the receipt of the order and of the Plan's procedures for determining whether the order is a Qualified Domestic Relations Order. The Plan Administrator shall, within a reasonable period after receipt of the order, determine whether it is a Qualified Domestic Relations Order and notify the Participant (or Member), each Alternate Payee, and/or any representative of that determination. Payment may be made to an Alternate Payee, in accordance with the QDRO, as soon as practicable after the QDRO determination is made, without regard to whether the distribution, if made to a Participant (or Member) at the time specified in the QDRO, would be permitted under the terms of the Plan.

(b) In determining whether a Domestic Relations Order constitutes a Qualified Domestic Relations Order, the procedures in ARTICLE XII apply, except that the Plan Administrator may establish additional procedures and/or may modify, revise or amplify existing qualified domestic relations order procedures. Notwithstanding any provision of the Plan to the contrary, the Plan Administrator shall place a hold upon the portion of a Participant's (or Member's) Account, at the time and for the reasonable period as the Plan Administrator in its discretion may determine, if the Plan Administrator receives notice that (a) a domestic relations order is being sought by the Participant (or Member), his spouse, former spouse, child or other dependent and (b) the Participant's (or Member's) Account is likely to be a source of payment under the order. For this purpose, a "hold" means that no withdrawals, loans or distributions

may be made with respect to the Participant's (or Member's) Account. The Plan Administrator shall notify the Participant (or Member) if a hold is placed upon his Account.

(c) The following terms have the meanings specified herein for purposes of this Section:

(1) Alternate Payee. Any spouse, former spouse, child or other dependent of a Participant or Member who is recognized by a Domestic Relations Order as having a right to benefits of the Participant or Member under the Plan.

(2) Domestic Relations Order. Written evidence of any judgment, decree or order (including approval of a property settlement) pursuant to State domestic relations or community property law relating to child support, alimony or marital property rights, as defined in Section 414(p)(1)(B) of the Code.

(3) Qualified Domestic Relations Order. A Domestic Relations Order that satisfies the requirements of Section 414(p)(1)(A) of the Code.

ARTICLE XI
DETERMINATION OF TOP-HEAVY STATUS

11.1. General.

Notwithstanding any other provision of the Plan to the contrary, for any Plan Year in which the Plan is Top-Heavy or Super Top-Heavy, as defined below, the provisions of this ARTICLE shall apply, but only to the extent required by Section 416 of the Code and the regulations thereunder.

11.2. Vesting.

(a) If the Plan becomes a Top-Heavy Plan, then amounts in a Participant's Account attributable to Contributions and forfeitures is vested in accordance with this Section, to the extent this Section produces a greater degree of vesting than otherwise provided under the Plan. This ARTICLE XI only applies to Participants who have at least an Hour of Service after the Plan becomes a Top-Heavy Plan.

(b) If applicable, amounts in a Participant's Account attributable to Contributions and forfeitures vest as follows:

<u>Whole Years of the Period of Service</u>	<u>Vested Percentage</u>
Less than 2	0%
2 but less than 3	20%
3 but less than 4	40%
4 but less than 5	60%
5 but less than 6	80%
6 or more	100%

(c) If the Plan ceases to be a Top-Heavy Plan then this ARTICLE XI no longer is applicable. This ARTICLE XI nevertheless continues to apply for any Participant who has completed three (3) whole years within his Period of Service and has elected to have his vested percentage to be determined under this ARTICLE XI. For Participants who do not have at least one (1) Hour of Service in any Plan Year beginning after December 31, 1988, the preceding sentence is applied by substituting "five (5) whole years" for "three (3) whole years" where the language appears. The Participant may elect to have this ARTICLE XI apply within sixty (60) days after the latest of:

(1) the first day of the Plan Year in which the Plan ceases to be Top Heavy, or

(2) the date the Participant is issued written notice of the right to make an election by the Plan Administrator.

(d) For purposes of this ARTICLE XI, whole years of the Period of Service are computed as provided in Section 7.5.

11.3. Minimum Contribution.

(a) For each Plan Year that the Plan is a Top-Heavy Plan, a Contribution shall be allocated directly to the Account of each Non-Key Employee as set forth in this ARTICLE XI.

(b) The amount of the Contribution required by this ARTICLE XI is three percent (3%) of the Compensation of each Non-Key Employee, with adjustments as provided herein. If the Contribution allocated to the Accounts of each Key Employee is less than three percent (3%) of his Compensation, then the Contribution required by the preceding sentence is reduced for that Plan Year to the same percentage of Compensation that was allocated to the Account of the Key Employee whose Account received the greatest allocation of Contributions, when computed as a percentage of Compensation. For purposes of this subsection, any forfeitures allocated to a Participant's Account are treated as Contributions.

11.4. Definitions.

(a) The following terms have the meanings specified herein for purposes of this ARTICLE XI:

(1) Aggregated Plans.

(i) The Plan and each plan of the Employer in which a Key Employee is a Participant and each other plan of the Employer which enables any plan of the Employer in which a Key Employee is a Participant to meet the requirements of Section 401(a)(4) or Section 410 of the Code. For purposes of determining whether the plans of the Employer are top-heavy for a particular plan year, the required aggregation group includes each plan of the employer in which a Key Employee participates in the plan year containing the determination date, or any of the four preceding plan years.

(ii) The Plan Administrator may treat any plan not included under subparagraph (i) above as being an Aggregated Plan if the Aggregated Plan described in subparagraph (i) above would continue to meet the requirements of Sections 401(a)(4) and 410 of the Code with the additional plan being taken into account.

(2) Determination Date. The last day of the preceding Plan Year, or, in the case of the first plan year of any plan, the last day of the plan year. The computations made on the Determination Date must utilize information from the immediately preceding Valuation Date.

(3) Key Employee. Key employee means any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the Determination Date was an officer of the Employer having annual compensation greater than \$185,000 (2021) (as adjusted under Section 416(i)(1) of the Code), a 5-percent owner of the Employer, or a 1-percent owner of the Employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of Section 415(c)(3) of the Code. The determination of who is a Key Employee will be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.

(4) Non-Key Employee. Any Participant or Member who is not a Key Employee.

(5) Top-Heavy Plan. The Plan is a Top-Heavy Plan for a Plan Year if, as of the Determination Date for that Plan Year, the aggregate of the accounts of Key Employees under all Defined Contribution Plans that are Aggregated Plans exceeds sixty percent (60%) of the comparable sum determined for all Employees.

(b) The definitions and the provisions of this ARTICLE XI are interpreted in a manner consistent with Section 416 of the Code.

11.5. Special Rules.

(a) For purposes of determining the Accounts of Employees as of the Determination Date, the Accounts are increased by the distributions made with respect to the Employee under the Plan and any Plan aggregated with the Plan under Section 416(g)(2) of the

Code during the 1-year period ending on the Determination Date. The preceding sentence also applies to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision is applied by substituting “5-year period” for “1-year period.” The Accounts of any individual who has not performed services for the Employer during the 1-year period ending on the Determination Date is not be taken into account.

(b) If any individual is a Non-Key Employee with respect to any plan for any plan year, but the individual was a Key Employee with respect to the plan for any prior Plan Year, any accrued benefit for the Employee (and the account of the Employee) is not be taken into account.

(c) Beneficiaries of Key Employees and former Key Employees are considered to be Key Employees and Beneficiaries of Non-Key Employees and former Non-Key Employees are considered to be Non-Key Employees.

ARTICLE XII
CLAIMS PROCEDURE

12.1. General.

All claims for benefits must be submitted to the Plan Administrator, who must consider them and approve or disapprove them within 90 days after the date the claim is received. This consideration and review will be conducted in a manner designed to comply with Section 503 of ERISA. If the Plan Administrator cannot process the claim due to special circumstances, the Plan Administrator shall notify the claimant regarding these circumstances and that the time for making a decision on the claim is extended for up to 90 days. If the Plan Administrator fails to notify the claimant within the applicable period, the claim is considered denied.

12.2. Claim Review.

If the Plan Administrator denies the claim to any extent, the Plan Administrator shall furnish the claimant with a written notice setting forth (in a manner calculated to be understood by the claimant):

- (a) the specific reason or reasons for denial of the claim;
- (b) a specific reference to the Plan provisions on which the denial is based;
- (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why the material or information is necessary; and
- (d) a written explanation of the claim review procedure, including a statement of a claimant's right to bring a civil action under ERISA Section 502(a) following a denial of an appeal of the initial denied claim.

12.3. Right of Appeal.

A claimant who has a claim denied under Section 12.2 may appeal to the Plan Administrator for reconsideration of that claim. A request for reconsideration must be filed by written notice within 60 days after receipt by the claimant of the notice of denial.

12.4. Review of Appeal.

Upon receipt of an appeal, the Plan Administrator shall promptly take action to give due consideration to the appeal. This consideration may include a hearing of the parties involved, if the Plan Administrator decides that a hearing is necessary. In preparing for this appeal, the claimant is given the right to review pertinent documents and the right to submit in writing a statement of issues and comments. After consideration of the merits of the appeal the Plan Administrator shall issue a written decision that is binding on all parties. The decision must be written in a manner calculated to be understood by the claimant and must specifically state:

- (a) the specific reason or reasons for denial of the claim;
- (b) a specific reference to the Plan provisions on which the denial is based;
- (c) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all Plan documents and other papers relevant to the claim; and
- (d) a statement of the claimant's right to bring a civil action under ERISA Section 502(a).

The Plan Administrator's decision is issued within 60 days after the appeal is filed, except that if a hearing is held the decision may be issued within 120 days after the appeal is filed. The decision of the Plan Administrator regarding the claim is final and conclusive on all parties.

12.5. Designation.

The Plan Administrator may designate one or more of their members or other person of their choosing to make any determination otherwise required under this ARTICLE XII.

12.6. Legal Action.

A claimant may not bring any legal action against the Plan Administrator, the Plan Sponsor, or the Employer in connection with his rights under the Plan until he exhausted the claims procedures described under this ARTICLE XII. Additionally, any legal action must commence no later than 180 days after the date of an adverse final determination as described

under Section 12.4 of the Plan. Any legal action in connection with a claimant's rights under the Plan must be brought exclusively in the state or federal courts located in the State of Florida.

ARTICLE XIII
AMENDMENTS

13.1. Right to Amend.

The Plan Sponsor reserves the right to amend this Plan at any time, in whole or in part, in accordance with and subject to the Participating Employer Agreement. Any amendment must be by resolution of the Board or by resolution of the Committee (or its delegate), which is vested with the right to amend the Plan.

13.2. Limitations.

No amendment of this Plan can:

- (a) Reduce any vested right or interest to which any Participant, Member or Beneficiary is then entitled under this Plan;
- (b) Cause any assets of the Trust to be used for, or diverted to, purposes other than for the exclusive benefit of Participants, Members and their Beneficiaries; or
- (c) Decrease the value of a Participant's Account balance or reduce or eliminate a protected benefits as described under Section 411(d)(3) of the Code.

ARTICLE XIV

TERMINATION

14.1. Right to Terminate.

The Plan Sponsor may terminate this Plan at any time, in accordance with and subject to the Participating Employer Agreement. A termination must occur by resolution of the Board or by resolution of the Committee (or its delegate), which is vested with the right to terminate the Plan. The Plan Sponsor must furnish the Plan Administrator and the Trustee with a copy of the resolution for the termination of the Plan as soon as practicable. Neither a temporary cessation nor the suspension of Contributions is deemed to be a termination of this Plan.

14.2. Full Vesting on Termination.

Upon the partial termination, complete termination or complete discontinuance of contributions under this Plan, the rights of each affected Participant to the amounts credited to that Participant's Account at such time shall be fully vested and non-forfeitable.

14.3. Distribution on Termination.

If the Plan is terminated, the Plan Sponsor, in its discretion, may direct the Trustee to cause the amounts in a Participant's Account to be paid at that time as a single lump sum payment. If the Plan Sponsor does not direct a single sum payment, each Participant's Account must be maintained by the Trustee to provide benefits for the Participant in accordance with the provisions of the Plan and the Trust as though the Plan had not been terminated. Notwithstanding anything in this Section 14.3 to the contrary, the Plan Sponsor may not make a distribution on termination, if the Plan Sponsor adopts, establishes or maintains an alternative defined contribution plan as set forth under Treas. Reg. 1.401(k)-1(d)(4)(i).

14.4. Effect on Benefits.

A termination of the Plan will not affect the validity of the Trust or the rights and duties of the Trustee thereunder to pay benefits as provided in this Plan.

ARTICLE XV
MISCELLANEOUS

15.1. Reemployed Veterans.

Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

15.2. No Assignment.

Except for Qualified Domestic Relations Orders, and except as allowed under Section 401(a)(13)(C) of the Code or as otherwise permitted by law, the right of any Participant, Member or Beneficiary to any benefit or to any payment hereunder is not subject to alienation, assignment, garnishment, attachment, execution or levy of any kind.

15.3. Merger/Transfer of Assets.

(a) In the event of a merger, consolidation or transfer of assets or liabilities of this Plan and Trust to any other plan, each Participant or Beneficiary is entitled to receive a benefit immediately after the merger, consolidation or transfer (as if the Plan were terminated) at least equal to the benefit that would have been receivable immediately before the merger, consolidation or transfer.

(b) The Plan Administrator, upon written direction, may cause some or all of the assets or liabilities of any other plan or trust which satisfies the applicable requirements of the Code relating to qualified plans and trusts to be transferred to the Trustee, whether the transfer is made pursuant to a merger or consolidation of this Plan with the other plan or trust or for any other allowable purpose.

(c) The Plan Administrator, upon written direction, may cause some or all of the assets or liabilities of this Plan and Trust to be transferred to any other plan or trust which satisfies the applicable requirements of the Code relating to qualified plans and trust, whether the transfer is made pursuant to a merger or consolidation of this Plan with the other plan or trust or for any other allowable purpose.

15.4. Governing Law.

The provisions of this Plan are construed, administered and enforced in accordance with the laws of the State of Florida, other than its laws respecting choice of law, to the extent not preempted by federal law.

15.5. Construction.

The provisions of this Plan are interpreted and construed in accordance with the requirements of the Code and ERISA. Capitalized terms have the meanings as defined herein. Singular nouns are read as plural, masculine pronouns are read as feminine and vice versa, as appropriate.

15.6. Counterpart Originals.

This document may be executed in more than one counterpart original.

15.7. Effect on Employment Rights.

Neither the existence of the Plan and Trust nor the substance of any of the provisions have any effect on the employment rights of any Employee.

15.8. Electronic or Telephonic Transmissions.

Notwithstanding any provision in this Plan to the contrary, salary reduction agreements and cancellations or amendments thereto, investment elections, changes or transfers, loans, withdrawal decisions, and any other decision or election by a Participant, Member or Beneficiary, or for any other purpose under this Plan, may be accomplished by electronic or telephonic means which are not otherwise prohibited by law and which are in accordance with procedures and/or systems approved or arranged by the Plan Administrator.

15.9. Undistributable Accounts.

Each Participant, Member and Beneficiary shall keep the Plan Administrator advised of his current address. If the Plan Administrator is unable (after making reasonable efforts) to locate the Participant, Member or Beneficiary to whom benefits are payable under the Plan, the Plan Administrator, in its discretion, may take the following steps:

(a) the individual's Account may be closed after 24 months have passed since the date the Account first became distributable to the Participant, Member or Beneficiary; and

(b) the balance credited to any Account so closed is credited to the forfeiture account under the Plan, and used as an offset against the Plan Sponsor's obligation to make employer contributions in future years or for Plan expenses.

If the Participant, Member or Beneficiary whose Account was closed under this Section subsequently files a claim for distribution of his Account, and if the Plan Administrator determines that the claim is valid, then the balance previously removed upon closure of the Account is restored to the Account first from forfeitures, if any, then by means of a special contribution which is made to the Plan by the Plan Sponsor (with no interest crediting made to the Account).

15.10. Uncashed Checks.

The Plan Administrator may establish and adopt the rules, regulations and/or administrative guidelines designed to facilitate the administration of uncashed checks (e.g., where any portion of a distribution check payable to a Participant, Member or Beneficiary hereunder remains uncashed for a period of time), including (i) the institution of any procedures intended to ascertain the whereabouts of a missing Participant, Member or Beneficiary, (ii) procedures for allocating some, all or none of the amounts to a forfeiture account, and (iii) procedures for re-establishing an Account, where appropriate, and may cease to implement the procedures and any other related rules, regulations and/or administrative guidelines in its discretion at any time. Among other alternatives available to the Plan Administrator, the Plan Administrator may determine, effective as of a date to be determined by the Plan Administrator, in the event that any portion of a distribution check payable to a Participant, Member or Beneficiary hereunder is uncashed for a period designated by the Plan Administrator following a reasonable effort to locate the Participant, Member or Beneficiary, the amount may be allocated to the Plan's forfeiture account until applied in accordance with Section 6.2 hereof. In the event that the Participant, Member or Beneficiary is located subsequent to the forfeiture of his benefit, the benefit is restored in an amount equal to the amount forfeited by means of a special contribution to the Trust and does not count as an annual addition under Section 415 of the Code. The restored benefit is not adjusted for investment gains or losses subsequent to the date of forfeiture.

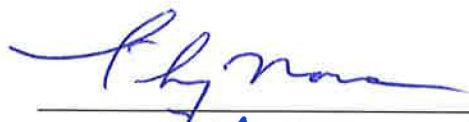
15.11. Conflicting Claims.

If the Plan Administrator determines that any person has a legal or equitable interest in any benefit that might become payable to a Participant, Member, Beneficiary or Alternate Payee, the Plan Administrator may require, as a condition to any election under the Plan (or to the continuing effect or revocation thereof), such written releases or other agreements as the Plan Administrator (in its discretion) may determine are necessary or appropriate to prevent or avoid any conflicting claim as to the payment of the benefit.

15.12. Account Adjustments.

Notwithstanding anything in the Plan to the contrary, the Plan may use a daily valuation system, which generally means that Accounts will be updated each business day to reflect activity for that day, such as, new contributions received by the Trustee, changes in Participant's or Member's investment elections, and changes in the value of the investment funds under the Plan. Daily valuation is dependent upon the Plan's recordkeeper receiving complete and accurate information from a variety of different sources on a timely basis. Since events may occur that cause an interruption in this process, affecting a single Participant or Member or a group of Participants or Members, there is no guarantee by the Plan that any given transaction will be processed on the anticipated day. In the event of an interruption, any affected transaction will be processed as soon as administratively feasible and no attempt is made to reconstruct events as they would have occurred absent the interruption, regardless of the cause, unless the Plan Administrator directs the Plan's recordkeeper to do so.

IN WITNESS WHEREOF, Palm Beach First Responders Foundation, Inc. has executed the Plan on the date indicated below, by a duly authorized representative of the Plan Sponsor.

By: 

Title: Timothy Moran, 2nd VP

Dated: December 30, 2021

The Palm Beach First Responders Foundation, Inc. Sponsored Retirement Plan for the benefit of the Town of Palm Beach Police Department and Fire Department Employees

**Appendix A
Minimum Distribution Requirements**

A.1 GENERAL RULES.

(a) Coordination with Minimum Distribution Requirements Previously in Effect. Required minimum distributions for years through 2001 were made in accordance with the version of the Regulations proposed in 1987. Required minimum distributions for 2002 were made in accordance with the version of the Regulations proposed in 2001. Required minimum distributions for 2003 and subsequent years will be made in accordance with the final Regulations.

(b) Precedence. The requirements of this Appendix A will take precedence over any inconsistent provisions of the Plan provided that this Appendix A is not considered to allow a Participant, Member or beneficiary to delay a distribution or elect an optional form of benefit not otherwise provided in the Plan.

(c) Requirements of Treasury Regulations Incorporated. All distributions required under this article will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) and the minimum distribution incidental benefit requirement of Section 401(a)(9)(G) of the Code.

(d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Appendix A, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

A.2 Time and Manner of Distribution.

(a) Required Beginning Date. The Participant or Member's entire interest will be distributed, or begin to be distributed, to the Participant or Member no later than the Participant or Member's required beginning date.

(b) Death of Participant or Member Before Distributions Begin. If the Participant or Member dies before distributions begin, the Participant or Member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the Participant or Member's surviving spouse is the Participant or Member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant or Member died, or by December 31 of the calendar year in which the Participant or Member would have attained age 72, if later.

(ii) If the Participant or Member's surviving spouse is not the Participant or Member's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant or Member died.

(iii) If there is no designated beneficiary as of September 30 of the year following the year of the Participant or Member's death, the Participant or Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant or Member's death.

(iv) If the Participant or Member's surviving spouse is the Participant or Member's sole designated beneficiary and the surviving spouse dies after the Participant or Member but before distributions to the surviving spouse begin, this Section A.2(b), other than Section A.2(b)(i), will apply as if the surviving spouse were the Participant or Member.

For purposes of Sections A.2(b) and A.4, unless Section A.2(b)(iv) applies, distributions are considered to begin on the Participant or Member's required beginning date. If Section A.2(b)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section A.2(b)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant or Member before the Participant or Member's required beginning date (or to the Participant or Member's surviving spouse before the date distributions are required to begin to the surviving spouse under Section A.2(b)(i)), the date distributions are considered to begin is the date distributions actually commence.

(c) Forms of Distribution. Unless the Participant or Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year, distributions will be made in accordance with Sections A.3 and A.4. If the Participant or Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations.

(d) Election to Apply 5-Year Rule to Distributions to Designated Beneficiaries. If the Participant or Member dies before distributions begin and there is a designated beneficiary, distribution to the designated beneficiary is not required to begin by the date specified in Section A.2(b), but the Participant or Member's entire interest will be distributed to the designated beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant or Member's death. If the Participant or Member's surviving spouse is the Participant or Member's sole designated beneficiary and the surviving spouse dies after the Participant or Member but before distributions to either the Participant or Member or the surviving spouse begin, this election will apply as if the surviving spouse were the Participant or Member. This election will apply to all distributions.

A.3 Required Minimum Distributions During Participant or Member's Lifetime.

(a) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant or Member's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(i) the quotient obtained by dividing the Participant or Member's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant or Member's age as of the Participant or Member's birthday in the distribution calendar year; or

(ii) if the Participant or Member's sole designated beneficiary for the distribution calendar year is the Participant or Member's spouse, the quotient obtained by dividing the Participant or Member's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant or Member's and spouse's attained ages as of the Participant or Member's and spouse's birthdays in the distribution calendar year.

(b) Lifetime Required Minimum Distributions Continue Through Year of Participant or Member's Death. Required minimum distributions will be determined under this Section A.3 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant or Member's date of death.

A.4 Required Minimum Distributions After Participant or Member's Death.

(a) Death On or After Date Distributions Begin.

(i) Participant or Member Survived by Designated Beneficiary. If the Participant or Member dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant or Member's death is the quotient obtained by dividing the Participant or Member's account balance by the longer of the remaining life expectancy of the Participant or Member or the remaining life expectancy of the Participant or Member's designated beneficiary, determined as follows:

(A) The Participant or Member's remaining life expectancy is calculated using the age of the Participant or Member in the year of death, reduced by one for each subsequent year.

(B) If the Participant or Member's surviving spouse is the Participant or Member's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant or Member's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant or Member's surviving spouse is not the Participant or Member's sole designated beneficiary, the designated beneficiary's remaining life

expectancy is calculated using the age of the beneficiary in the year following the year of the Participant or Member's death, reduced by one for each subsequent year.

(ii) **No Designated Beneficiary.** If the Participant or Member dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant or Member's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant or Member's death is the quotient obtained by dividing the Participant or Member's account balance by the Participant or Member's remaining life expectancy calculated using the age of the Participant or Member in the year of death, reduced by one for each subsequent year.

(b) **Death Before Date Distributions Begin.**

(i) **Participant or Member Survived by Designated Beneficiary.** If the Participant or Member dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant or Member's death is the quotient obtained by dividing the Participant or Member's account balance by the remaining life expectancy of the Participant or Member's designated beneficiary, determined as provided in Section C.4(a).

(ii) **No Designated Beneficiary.** If the Participant or Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant or Member's death, distribution of the Participant or Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant or Member's death.

(iii) **Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin.** If the Participant or Member dies before the date distributions begin, the Participant or Member's surviving spouse is the Participant or Member's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section A.2(b)(i), this Section A.4(b) will apply as if the surviving spouse were the Participant or Member.

A.5 Definitions.

(a) **Designated Beneficiary.** The individual who is designated as the beneficiary in accordance with Section 2.7 of the Plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-4, Q&A-1, of the Treasury regulations.

(b) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant or Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant or Member's required beginning date. For distributions beginning after the Participant or Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section C.2(b). The required minimum

distribution for the Participant or Member's first distribution calendar year will be made on or before the Participant or Member's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant or Member's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(c) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(d) Participant or Member's Account Balance. The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(e) Required Beginning Date. The Required Beginning Date means April 1 of the calendar year following the later of (a) the calendar year in which the Participant or Member attains age seventy and a half (72), or (b) the calendar year in which the employee retires. In the case of a Participant or Member who is a five percent (5%) owner (as defined in Section 416 of the Code) with respect to the Plan ending in the calendar year in which the Participant or Member turns 72, the Required Beginning Date is April 1 of the calendar year following the calendar year in which the Participant or Member turns 72.

The Palm Beach First Responders Foundation, Inc. Sponsored Retirement Plan for the benefit of the Town of Palm Beach Police Department and Fire Department Employees

Appendix B
Special Provisions Applicable to Payments to Beneficiaries

B.1 Default. If there is no valid designated Beneficiary on file with the Plan Administrator or the Plan's recordkeeper to receive any amount that becomes payable under the Plan, the amount will be paid in the following order of priority to:

- The Participant's or Member's spouse, as determined by federal law; and if no surviving spouse to
- The Participant's or Member's children (including adopted children), per stirpes; and if none to
- The Participant's or Member's surviving parents, in equal shares; and if none to
- The Participant's or Member's estate.

B.2 Simultaneous Death. To be entitled to receive any undistributed amounts credited to the Account upon the Participant's or Member's death, any person(s) designated as a Beneficiary must be alive, and any entity designated as a Beneficiary must be in existence at the time of the Participant's or Member's death. In the event that the sequence of the deaths of the Participant or Member and any primary Beneficiary cannot be determined or occurred within 120 hours (i.e., 5 days) of each other, the Participant or Member is deemed to have survived.

B.3 Criminal Acts. If the death of a Participant, Member or any Beneficiary is the result of a criminal act involving another Beneficiary, the accused Beneficiary, if convicted of the criminal act, is not entitled to receive any undistributed amounts attributable to the Participant or Member.

B.4 Minors. As long as a Beneficiary remains a minor, any inherited Account established on behalf of the Beneficiary will be controlled by the person(s) that have provided satisfactory evidence to the Plan Administrator that he is authorized to act as representative on behalf of the minor. The minor's representative may be a court-appointed guardian, conservator or any other person named to serve as the minor's representative in the Participant's or Member's will admitted to probate or any other person determined by the Plan Administrator to be authorized to act on behalf of the minor. A minor is a person who has not yet reached the age of majority for the purpose of ownership of financial investments under the laws of the state in which the minor is domiciled. Notwithstanding the limitation set forth in this Section, a minor may request that any inherited Account be transferred to him at any time after attaining the age of majority under the laws of the state in which the minor is domiciled.

RESOLUTION 015-2022

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE TOWN COUNCIL TO ENTER INTO AN AGREEMENT WITH THE PALM BEACH FIRST RESPONDER'S FOUNDATION, INC. TO ESTABLISH A RETIREMENT PLAN FOR TOWN OF PALM BEACH POLICE DEPARTMENT AND FIRE DEPARTMENT EMPLOYEES THAT WILL BE FUNDED AND MAINTAINED BY THE FOUNDATION; APPROVING THE TERMS OF THE RETIREMENT PLAN; AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE TOWN COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR FULL FORCE AND EFFECTIVENESS; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Palm Beach First Responders Foundation ("Foundation") is a charitable organization created to support the Town's police and fire department employees, enhance the technology and equipment used by the departments, and provide financial assistance to first responders and their families.

WHEREAS, the Town provides the employees of its police and fire departments with compensation and the opportunity to participate in a suite of employee benefits, as amended from time to time, including retirement benefits provided through and in connection with certain tax-qualified retirement plans sponsored by the Town ("Town Retirement Plans"); and

WHEREAS, the Foundation desires to sponsor, fund, and administer an additional tax-qualified retirement plan for the benefit of certain employees of the Town's police and fire departments; and

WHEREAS, the Town acknowledges that the Foundation's provision of a tax-qualified retirement plan for certain eligible employees of the Town's police and fire departments will support the Town's efforts to recruit and retain these employees, and therefore fulfills a public purpose.

NOW, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves the Tax-Qualified Retirement Plan Adoption/Participation Agreement with the Palm Beach First Responder's Foundation, Inc. for the purpose of establishing a retirement plan for certain eligible employees of the Town's police and fire departments, attached hereto as Exhibit A. Pursuant to this Agreement, the Foundation shall fund and administer the Plan in accordance with the Plan documents.

Section 2. The Town Council of the Town of Palm Beach hereby agrees, consents to, and approves the establishment and operation of a tax-qualified retirement plan known as “The Palm Beach First Responders Foundation Inc. Sponsored Retirement Plan for the Benefit of for Town of Palm Beach Police Department and Fire Department Employees” (“Plan”). The Plan documents are attached hereto as Exhibit B. The Plan shall be effective as of December 31, 2021.

Section 3. The Mayor is hereby authorized and directed to execute the Agreement with the Foundation.

Section 4. If any section, sentence, clause or phrase of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Resolution.

Section 5. This Resolution shall remain in full force and effect until supplemented, amended, repealed or otherwise altered. The Town reserves the right to terminate the Plan at any time.

Section 6. This Resolution hereby repeals all resolutions in conflict herewith.

Section 7. The Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 11th day of January, 2022.

Danielle H. Moore, Mayor

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Regular Agenda - New Business

Agenda Title

Florida Power and Light's (FPL) Request for Waiver of Construction Limitations in the Right-of Way Between December 1, 2021 and May 1, 2022

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- ▣ **Memorandum dated December 20, 2021, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **FPL Submarine Feeder Cable Replacement Waiver Request**
- ▣ **FPL Submarine Feeder Cable Replacement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

TO: Mayor and Town Council

VIA: Kirk. W. Blouin, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Florida Power and Light's (FPL) Request for Waiver of Construction Limitations
in the Right-of-Way Between December 1, 2021 and May 1, 2022

DATE: December 20, 2021

STAFF RECOMMENDATION

Town staff request Town Council Members consider Florida Power and Light's (FPL) request to work in the right-of-way during season.

GENERAL INFORMATION

FPL has an ongoing project to replace a damaged submarine feeder cable under the Intracoastal located just north of Phipps Park along South Ocean Blvd. The cable must be replaced as it has now failed three (3) times and has been determined to be irreparable should another failure take place. This feeder cable currently serves around 1,700 customers, including both towers of the condo located at 2100 South Ocean Blvd. FPL has been working on replacing this cable since the end of August 2021. While FPL indicates this is emergency work, they have failed to successfully complete the work in four (4) months.

FPL did not complete the work before December 1, 2021 and continued to work without notification or request for a waiver to Town requirements. On page 20 of the Standards Applicable to Public Rights-of-Way and Easements within the Town of Palm Beach in Section 2.24 Construction Hours, the manual states: "For all areas outside Worth Avenue, work is permitted from May 1st through November 30th, from 8:00 a.m. through 6:00 p.m., Monday through Saturday, excluding legal holidays. Except for emergency work, work is prohibited in the road right-of-way from December 1st through April 30th unless operation will not negatively affect area residences and businesses, and is of short duration, and will not block major roadways of the Town." While FPL's equipment and staff will be outside of the right-of-way, the conduit and cables are being pulled directly through the Town and FDOT's rights-of-way. Because the work crosses the Town's right-of-way, a right-of-way permit is required. FPL has secured a permit from FDOT.

Due to unforeseen circumstances, the work could not be completed prior to December 1, 2021. Town staff informed FPL that work had to stop until May 1, 2022 unless Town Council approved a waiver. FPL has changed their approach to performing this work and is now planning to work from the West Palm Beach side for the drilling and use the Town of Palm Beach location to pull the conduit and cable. FPL hopes to restart the work within the Town's right-of-way on January 12, 2022. They plan to start work from the West Palm Beach side of the Intracoastal on January 3, 2022 and then finish the work on the island. FPL has conveyed to staff that the job is currently at an extremely pivotal point in that they have the hole drilled, but don't have the conduit in the ground yet. Every day that the hole sits vacant, this allows for saltwater intrusion and increases the probability of the hole collapsing. For this reason, FPL is requesting approval to perform the remaining work in the Town of Palm Beach on the planned timeline listed below:

- Begin work on January 12, 2022 to pull the conduit. The cable pull will then take place from January 13th - January 17th. Since cable will be pulled from the west side of the intracoastal, there will only be a couple of smaller machines on the island. The major noise, exhaust, and commotion won't be taking place on the Town side.
- The week of January 17, 2022 crews will make terminations on the island and begin breaking down the equipment.
- The week of January 24, 2022 the crews will restore the City of West Palm's watermain back to preconstruction configuration.
- The week of January 31, 2022 restoration will take place at the lot north of Phipps Park to include sod replacement, bushes, trees, and plants as requested by the Town. Restoration will also include any disturbed area along A1A just south of 2100 South Ocean Blvd.

Because work will only occur Monday through Friday and only from 9:00 a.m. to 4:00 p.m., no other waivers from Town ordinances are being requested. The above time line is aggressive and staff has concerns that it may not be realistic.

FUNDING/FISCAL IMPACT

No funding associated with this request.

Attachments

cc: Jason Debrincat, P.E., Senior Project Engineer



December 28, 2021

Paul Brazil
Director of Public Works
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Dear Mr. Brazil,

Florida Power & Light Company is requesting a waiver to be able to work within the town of Palm Beach during the winter season to ensure reliable service to our customers.

FPL currently has an ongoing project to replace a submarine cable under the Intracoastal Waterway located just north of Phipps Park along South Ocean Blvd. This cable currently serves around 1,700 customers, including both towers of the condo located at 2100 S. Ocean Blvd.

Due to unforeseen circumstances, the work could not be completed before the week of Christmas. The job is currently at a critical point. The conduit needs to be installed in a pre-drilled hole, which current sits empty. If the conduit is not installed soon, saltwater intrusion could cause the hole to collapse.

If the waiver is approved, we will begin boring again on January 3 from the West Palm Beach side of the Intracoastal and then finish the work on the island as follows:

- Jan. 12-17: Begin work and pull the conduit from the west side of the Intracoastal. Crews will be using small construction equipment on the island; however, the majority of the work will take place on the other side of the Intracoastal.
- Week of Jan. 17: Crews will complete work on the island and begin removing equipment.
- Week of Jan. 24: Crews will restore the city of West Palm Beach's water main back to its pre-construction configuration.
- Week of Jan. 31: Restoration will take place at the lot north of Phipps Park to include sod replacement, bushes, trees and plants as requested by the town. Restoration will also include any disturbed area along A1A just south of 2100 S. Ocean Blvd.

All work will be performed Monday through Friday between 9 a.m. and 4 p.m. Thank you for considering this request for waiver. Please call our **Project Manager Jason Henard at (954) 327-3121 or Senior Customer Advisor Robert Weese at 561-685-4814** should you need additional information.

Sincerely,

Lisa Robinson
Manager, Centralized Underground Programs
Florida Power & Light Company



FPL Submarine Feeder Cable Replacement

FPL has an ongoing project to replace a damaged submarine feeder cable under the Intracoastal located just north of Phipps Park along S Ocean Blvd. The cable must be replaced as it has now failed 3 times and has been determined to be irreparable should another failure take place. This feeder cable currently serves around 1,700 customers, including both towers of the condo located at 2100 S Ocean Blvd.

We had begun the directional boring across the Intracoastal for the new cable, and had planned to be complete prior to the holidays. Due to unforeseen circumstances, the work could not be completed before the week of Christmas. We will begin boring again on January 3rd from the West Palm Beach side of the Intracoastal, and then finish the work on the Island. The job is currently at an extremely pivotal point in that we have the hole drilled, but don't have the conduit in the ground yet. Every day that the hole sits vacant allows for saltwater intrusion and increases the probability of the hole collapsing. For this reason, we are requesting approval to perform the remaining work in the Town of Palm Beach on the planned timeline listed below.

- Begin work on 1/12 to pull the conduit. The cable pull will then take place from 1/13 - 1/17. Since cable will be pulled from the west side of the Intracoastal, there will only be a couple of smaller machines on the Island. The major noise, exhaust, and commotion won't be taking place on the town side.
- The week of 1/17 crews will make terminations on the Island and begin breaking down the equipment.
- The week of 1/24 the crews will restore the City of West Palm's water main back to preconstruction configuration.
- The week of 1/31 restoration will take place at the lot north of Phipps park to include sod replacement, bushes, trees, and plants as requested by the town. Restoration will also include any disturbed area along A1A just south of 2100 S Ocean Blvd.

All work will be performed between the hours of 9am and 4pm, with absolutely no weekend work.

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Regular Agenda - New Business

Agenda Title

Request from Contractor to Restart Work at 1191 North Lake Way

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- ▣ **Memorandum dated December 29, 2021, from H. Paul Brazil, P.E.
Director of Public Works**
- ▣ **Rogers General Contracting Remaining Activities**
- ▣ **Letter Dated December 29, 2021, from Russell Novak, Project Manager,
Rogers Contracting**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 11, 2022

TO: Mayor and Town Council

VIA: Kirk. W. Blouin, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Request from Contractor to Restart Work at 1191 North Lake Way

DATE: December 29, 2021

STAFF RECOMMENDATION

Town staff requests that the Town Council consider the request from the contractor to restart work at 1191 North Lake Way.

GENERAL INFORMATION

A third strike construction parking violation was issued at 1191 North Lake Way on December 7, 2021. Due to the “Three Strike Rule”, a notice was issued to stop work. A letter of appeal was received December 15, 2021. The letter essentially requested a waiver to a strike that was far outside of the appeals timeline, therefore, the appeal was not granted. In order for work to begin again, Town Council needs to consider the contractor and property owners request. Attached is an email from the contractor describing work remaining on the site which is also captured below:

- Final landscape small plantings and landscape light installation. All large trees and hedging are complete. All wiring for lighting complete. Remaining duration 1-2 weeks concurrently with work activities below.
- Installation of the aluminum pergola structure in the southwest corner. Slab is placed, only assembly of the structure remains. Remaining duration two (2) weeks concurrently.
- Cast stone finish for fountain feature (shell and plumbing completed), driveway apron stone (concrete slab completed), and east site wall caps (walls completed). All other exterior stone elements are complete. Remaining duration: 2-3 weeks concurrently.
- Remaining final inspections for the interior renovation project: Elevator Final, Final Site Drainage and Certification, and Final Building.

Staff will be available for discussion.

FUNDING/FISCAL IMPACT

There is no fiscal impact associated with this item at this time.

cc: Wayne Bergman, Planning, Zoning and Building Director
Patricia Strayer, P.E., Town Engineer
Nicholas Caristo, Police Chief
Craig Hauschild, PZB Civil Engineer
Russell Novak, Rogers General Contracting

Lynne Menniti

To: Patricia Strayer

From: Russell Novak <rnovak@rogersgc.com>

Sent: Wednesday, December 22, 2021 8:32 AM

To: Patricia Strayer <PStrayer@TownofPalmBeach.com>

Cc: Paul Brazil <PBrazil@TownofPalmBeach.com>; John Rogers <jrogers@rogersgc.com>; Patrick Segraves <pat@skaarchitect.com>

Subject: 1191 North Lake Way - Remaining Activities

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Good morning Mrs. Strayer,

As discussed last week, here is a summary of the remaining activities on site at the 1191 North Lake Way project after December 27th:

- Final landscape small plantings and landscape light installation. All large trees and hedging are complete. All wiring for lighting complete. Remaining duration 1-2 weeks concurrently with work activities below
- Installation of the aluminum pergola structure in the Southwest corner. Slab is placed, only assembly of the structure remains. Remaining duration 2 weeks concurrently
- Cast stone finish for fountain feature (shell and plumbing completed), driveway apron stone (concrete slab completed), and East site wall caps (walls completed). All other exterior stone elements are complete. Remaining duration: 2-3 weeks concurrently
- Remaining final inspections for the interior renovation project: Elevator Final, Final Site Drainage and Certification, and Final Building.

These activities require limited manpower and will be resolved quickly after work is allowed to resume. Parking for this manpower will be confined to the project site, and we will be protecting the finished motor court with plywood to prevent damage. The only deliveries remaining will be on small trucks for the remaining cast stone, sod, and small plantings.

We appreciate your consideration and understanding of our efforts to complete the project in a timely manner for the homeowner. We apologize for the inconvenience this has caused your team.

Unfortunately

this last citation came during the homeowner move-in which is always a very challenging time period for logistics on a project.

If you have any questions or would like to discuss further in anticipation of the Town Council meeting, please let me know.

Thank you and I hope you have a great day and a great holiday,

Russell Novak
rnovak@rogersgc.com

319 Clematis Street • Suite 909
West Palm Beach, FL 33401

1-414-225-0123 mobile
(386) 846-8642
(561) 475 5870 office
(561) 475-5871 fax





December 15, 2021

Town of Palm Beach
Public Works
360 South County Road
Palm Beach, FL 33480

Re: 1191 North Lake Way Construction Parking Third Strike – Appeal Request

Mr. Brazil,

Rogers General Contracting is formally requesting the Third Construction Parking Strike for the project at 1191 North Lake Way, issued December 7, 2021, to be considered for retraction against the project record. Below is an explanation of the factors pertaining to our appeal request. The renovation project at 1191 North Lake Way is very close to completion, with nearly all final inspections secured and only landscaping and stone hardscape scope remaining, both of which are at roughly 90% complete. The homeowner and his family will be moving into the home on December 17, 2021 (this Friday) to spend the holiday together, and all furniture has been delivered and installed. Pertaining to our appeal request, I've included the details of the Second Parking Strike for this address, which we believe warrants reconsideration in this current circumstance as it was issued to a subcontractor not employed on this project or even any Rogers General Contracting (RGC) projects previously. We appreciate your time in reviewing the information herein, and we're hopeful that this information is sufficient to allow work to be completed on this project for the benefit of the homeowner and the adjacent residents as well.

1191 North Lake Way Second Parking Strike

The Second Construction Parking Strike, issued September 25, 2020, is worth detailing at this time as unfortunately it was wrongfully attributed to our project record and went without a formal request of appeal from our team. The citation was issued for a cabinetry subcontractor from another project (Bon Vivant Cabinetry) who parked their work van on the shoulder of North Lake Way, in front of our jobsite at 1191, to buy lunch from the lunch truck that was parked (legally) on our site at the time. Code Enforcement witnessed the van park, and the workers exit to the lunch truck on our site, at which time that cabinetry van was ticketed. This ticket was incorrectly attributed as a strike against our project as this was not a contracted vendor for our project. We're happy to provide documentation or allow examination of our company records which will indicate that we have never worked with Bon Vivant Cabinetry in any capacity. Following the second strike, we immediately began the employment of a full-time parking attendant to monitor the street (nearly 1 year ago), and we have also subsequently begun shuttling workers to the project site to better manage the parking logistics as we complete the project. When the second strike citation was issued, RGC decided to pay the fine in good faith to avoid conflict with the Town and with Code Enforcement. In hindsight, an appeal should have been requested for this second strike in a timely manner to allow all parties to discuss the facts in further detail with the Code Enforcement team to explain the situation. I'm confident reason would have prevailed in this case, and we may not be in our current predicament.

Project Completion Status

As of today, the main home interiors are 100% complete and furniture is in place for the homeowner move-in this Friday. The hardscape stone and landscape work are in the final stages and are roughly 90% complete as well. We have been working hard to expedite the total completion for the homeowner as well as the neighboring residents to minimize our activities as much as possible during the Season. Unfortunately, the construction parking strike on December 7, 2021 (detailed below) came while the homeowner was delivering/sorting/installing their furniture, which exacerbated our parking logistical challenges.

319 Clematis Street • Suite 909 • West Palm Beach, Florida 33401
Office (561) 475-5870 • Fax (561) 475-5871 • www.rogersgc.com

ROGERS
GENERAL CONTRACTING
CORPORATION

December 7, 2021 Parking Citation

At the time of this most recent citation (more than 1 year from the second citation), the homeowner had an RSVP Moving box truck parked in the driveway delivering furniture for their 12/17/21 move-in. On this day, we were also installing the cast stone in the motor court, so the box truck was occupying the only parking space available on site. A van from Patterson's Cabinetry had parked temporarily on the corner of North Lake Way and Nightingale so their worker could retrieve his tools from the home and leave for another project. As noted above, we have a competent full-time parking attendant to help mitigate our challenges, however he could not get the vehicle moved before the Public Works attendant issued the citation. Also involved were a Florida Utilities gas vehicle that was making an emergency repair to a broken gas line on the site, and a roaming supervisor vehicle for the cast stone company that was confirming his crew was on site. The supervisor vehicle went unnoticed by our parking attendant as the truck was parked further away and the attendant mistakenly thought it was for the construction site on Nightingale.

1191 North Lake Way Logistics and Efforts at Compliance

The logistics of parking for any construction project on North Lake Way is very challenging. On this project specifically, our logistics have become extremely difficult recently as the hardscape design limits our parking on site severely. The key remaining activity is completing the cast stone and river rock in the motor court and driveway, which limits our parking to only one vehicle parked on site at any time. In addition, because there is no street parking on North Lake Way, we are unable to secure Construction Parking Permits, which only magnifies the difficulties. As mentioned above, we've programmed means of mitigating the parking challenges and complying with the Construction Parking Rules. We've been shuttling the workers from remote parking areas, and the parking attendant has helped significantly following the second strike. This added cost has been approved and even driven by the homeowner to make a good faith effort at complying with the Construction Parking Rules. We've placed the parking attendant at the project entrance for nearly a year now, and up until the December 7 incident he has done a great job of keeping the parking in check. Unfortunately, the December 7 incident was a "perfect storm" of bad timing as we make our final push to project completion and the homeowner move-in.

Conclusion

Rogers General Contracting has many current and completed projects in the Town of Palm Beach. This is our first "Strike 3" for Construction Parking. We consistently approach the Construction Parking Rules with the utmost importance and always take extra measures to ensure we're compliant. We understand the importance of monitoring and coordinating the project sites both in parking as well as cleanliness and organization for the overall aesthetic of the Town and its residents. The owner of RGC is a resident of the Town of Palm Beach, and as such is constantly enforcing our company guidelines regarding site management. As a team we are dedicated to valuing and adhering to the rules of the Town.

We're respectfully requesting that this Third Strike be repealed, allowing us to complete the project in a timely manner for the homeowner and for the benefit of the surrounding residents as well. We're happy to discuss this issue further with you or meet on the project site if it is beneficial.

If you have any questions, please call me at 386-846-8642.

Thank you for your consideration,



Russell Novak
Project Manager

319 Clematis Street • Suite 909 • West Palm Beach, Florida 33401
Office (561) 475-5870 • Fax (561) 475-5871 • www.rogersgc.com



December 29, 2021

Town of Palm Beach
Town Council
360 South County Road
Palm Beach, FL 33480

Re: 1191 North Lake Way – Consideration to Restart Work

Mr. Brazil,

Rogers General Contracting is formally requesting that the Town of Palm Beach Town Council allow work to be resumed at the renovation project at 1191 North Lake Way. Rogers General Contracting stopped work at this address following a conversation with Mrs. Patricia Strayer regarding the 3rd Construction Parking Strike Appeal Request submitted on December 16, 2021. We have in good faith stopped work at this address at the end of business on December 23, 2021 until we receive formal approval from Town Council to continue and complete the project. The project is very close to completion, with nearly all final inspections secured and only small landscape plantings and minimal stone hardscape scope remaining, both of which are at roughly 90% complete. As of December 17, 2021, the homeowner is occupying the home, and all furniture has been delivered and installed. We appreciate your time in reviewing this request, and we're hopeful that this information is sufficient to allow work to be completed on this project for the benefit of the homeowner and the adjacent residents as well.

Project Completion Status

As of the work stoppage on December 23, 2021, the main home interiors are 100% complete and the home is occupied. The hardscape stone and landscape work are in the final stages. The landscape requires sod and small plantings, and the hardscape consists of site wall caps, fountain tile, and the river rock apron. Unfortunately, the 3rd construction parking strike on December 7, 2021 came while the homeowner was delivering/sorting/installing their furniture, which exacerbated our parking logistical challenges during our push to complete the project by the end of the year. The remaining work activities require limited manpower on site in comparison to our recent completion efforts, and the scope will be completed quickly once work is allowed to resume. The homeowner confirmed we will be able to park our work vehicles on site in the motor court while we install the last hardscape and landscape finishes, so the parking situation will be easily controlled.

1191 North Lake Way Logistics and Efforts at Compliance

The logistics of parking for any construction project on North Lake Way are very challenging due to both space constraints, and the lack of available construction parking permits. To comply with the parking regulations while completing the project, we had been shuttling the workers from remote parking areas, and we had employed a full parking attendant who has helped significantly in monitoring the constant challenges with a busy jobsite. These added cost have been approved and even driven by the homeowner to make a good faith effort at complying with the Construction Parking Rules. We've placed the parking attendant at the project entrance for nearly a year now, and up until the December 7 3rd strike incident he has done a great job of keeping the parking in check. The December 7 incident was a "perfect storm" of bad timing as we make our final push to project completion and the homeowner move-in. In addition, the project technically has (2) legitimate construction parking strikes against the record over a period of 18 months. The 2nd parking strike was incorrectly issued to our jobsite, however it went without appeal from our team as we did not want to cause trouble with Code Enforcement.



Conclusion

Rogers General Contracting has many current and completed projects in the Town of Palm Beach. This is our first "Strike 3" for Construction Parking. We consistently approach the Construction Parking Rules with the utmost importance and always take extra measures to ensure we're compliant. We understand the importance of monitoring and coordinating the project sites both in parking as well as cleanliness and organization for the overall aesthetic of the Town and its residents. The owner of RGC is a resident of the Town of Palm Beach, and as such is constantly enforcing our company guidelines regarding site management. As a team we are dedicated to valuing and adhering to the rules of the Town.

We're respectfully requesting that work be allowed to resume at 1191 North Lake Way, allowing us to complete the project in a timely manner for the homeowner and for the benefit of the surrounding residents as well. We're happy to discuss this issue further with you or meet on the project site if it is beneficial.

If you have any questions, please call me at 386-846-8642.

Thank you for your consideration,

A handwritten signature in blue ink, appearing to read "RN", written over a horizontal line.

Russell Novak
Project Manager

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Ordinances - Second Reading

Agenda Title

Proposed Ordinance to Amend Chapter 18 of the Town Code and the Public Works Right of Way Manual to Include Certain Construction Site Violations as “Strikes” Under the “Three Strike Program”

ORDINANCE NO. 28-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 18, Buildings and Building Regulations, by Creating Article VII. - Construction Site Management, and by Adding Sections 18-309 and 18-310; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- ▣ **Ordinance No. 28-2021**

ORDINANCE NO. 28-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, BY CREATING ARTICLE VII. - CONSTRUCTION SITE MANAGEMENT, AND BY ADDING SECTIONS 18-309 AND 18-310; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Chapter 18, Buildings and Building Regulations, at Article VII, by creating Article VII. - Construction Site Management, and by adding Sections 309 and 310, to read as follows:

“ARTICLE VII. – CONSTRUCTION SITE MANAGEMENT

Sec. 18-309. – Maintenance of construction sites.

Property owners and their contractors shall be responsible for the implementation, installation, and maintenance of all required demolition and construction screening, perimeter landscaping and screening, on-job toilet facilities, truck logistics and staging, and other required site matters required by this chapter (see Sections 18-2, 18-3, 18-86, 18-111, and 18-201).

Any Town-documented lack of required item(s) or lack of maintenance of the item(s) shall be a violation of this chapter and each violation will constitute one strike under the “3 Strike Rule”, which is detailed in the Town Right of Way Manual, Chapter XII, Miscellaneous Provisions, Construction Parking & Construction Site Management. Compliance with the Town Right of Way Manual is mandated by Section 18-111.

Sec. 18-310. – Noise and Construction hours.

Property owners and their contractors shall be responsible for complying with the noise regulations and hours for construction work, contained in Chapter 42, Environment, Sections 42-197 through 42-199.

Each Town-documented violation of these sections will constitute one strike under the “3 Strike Rule”, which is detailed in the Town Right of Way Manual, Chapter XII, Miscellaneous Provisions, Construction Parking & Construction Site Management. Compliance with the Town Right of Way Manual is mandated by Section 18-111.”

Section 2. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 14th day of December, 2021, and for second and final reading on this 11th day of January, 2022.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward Cooney, Town Council Member

Pat Gayle-Gordon, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Ordinances - Second Reading

Agenda Title

Proposed Ordinance to Amend Chapter 42 of the Town Code, Relative to Lawn Maintenance and Prohibited Acts

ORDINANCE NO. 29-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 42 of the Town Code of Ordinances at Article V. Noise at Section 42-197. Specific Acts Prohibited and at Section 42-230. Lawn Maintenance; Providing for Severability; Providing for Repeal of Ordinances in Conflict Herewith; Providing for Codification; Providing an Effective Date.

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▣ **Ordinance No. 29-2022 - Noise - Redline Strikethrough**

ORDINANCE NO. 29-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 42 OF THE TOWN CODE OF ORDINANCES AT ARTICLE V. NOISE AT SECTION 42-197. SPECIFIC ACTS PROHIBITED AND AT SECTION 42-230. LAWN MAINTENANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE

Be It Ordained by the Town Council of the Town of Palm Beach as follows:

Section 1: Chapter 42 titled Environmental is hereby amended at Section 42-197, titled Specific Acts Prohibited and at Section 42-230 titled Lawn Maintenance to read as follows:

Sec. 42-197. Specific acts prohibited.

The following acts shall be unlawful whether or not such acts constitute a violation of section 42-196:

- (1) *Keeping of animals.* The keeping of any animal or bird that causes loud and raucous noise, or frequent noise audible within any receiving dwelling, hotel or other type of residence.
- (2) *Playing of radio, television, phonograph, similar device.* The playing of any radio, television, phonograph, compact disc player, tape player, musical instrument, or other sound-making device audible within any receiving dwelling, hotel or other type of residence between the hours of 12:00 midnight and ~~7:00~~ 9:00 a.m. or at any such time so that the sound created by such device violates the standards set forth in section 42-196.
- (3) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting the playing, using or operating of any radio or television receiving sets, musical instrument, phonograph, compact disc player, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (4) *Noises near churches, schools.* The creation of any noise on any street or other public way adjacent to any church, school or institution of learning while the same is in session that unreasonably interferes with the workings of such institution.

- (5) *Loading and unloading operations.* The creation at any time of loud and raucous noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, crates or containers.
- (6) *Noises to attract attention.* The use of any drum, pan, pail, bell, horn, trumpet, loudspeaker or other instrument or sound-making device for the purpose of attracting attention to any performance, show, sale, display or merchandise.
- (7) *Yelling, shouting, similar noises.* Yelling, shouting, hooting, whistling or singing on the public streets between the hours of 12:00 midnight and ~~7:00~~ 9:00 a.m., or at any time or place in a manner violating the standards set forth in section 42-196.
- (8) *Blowers.* The operation of any noise-creating blower or power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- (9) *Operation of car radios.* The operation of radios or other mechanical sound making devices or instruments in vehicles as hereby regulated and controlled by F.S. § 316.3045.
- (10) *Operation of sound making devices in public areas.* The operation of radios or tape players or other mechanical sound making devices or instruments in or upon a public street, highway, building, sidewalk, park, thoroughfare or other public area or located in or upon a public access area, such as a parking lot, etc., if such sound can be heard from more than 50 feet, measured in a straight line from its source.
- (11) *Commercial loading and unloading operations, certain times prohibited for locations in or adjacent to residentially zoned areas.* The commercial loading and unloading of any vehicle, or the opening, destruction and/or disposal of bales, crates, containers, or any other item for businesses located in or adjacent to residentially zoned areas, shall be prohibited between the hours of 8:00 p.m. and 8:00 a.m.
- (12) *Gasoline powered leaf blowers.*
- (a) Definition. Leaf blowers shall mean any air blowing machine that uses a concentrated stream of air to push, propel or blow dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse or debris.
- (b) The use of gasoline powered leaf blowers is prohibited on any property within the town ~~which is less than one acre in size~~. This prohibition shall be effective as of May 1, 2022~~October 1, 2017~~. The current allowance of gasoline powered leaf blowers on properties one acre or more shall be eliminated as of May 1, 2022.

when all gasoline powered leaf blowers shall be prohibited on any property within the town.

Sec. 42-230. Lawn maintenance.

- (a) Lawn maintenance in the town shall be limited to the hours outlined for construction work at section 42-199 and all gas or electric powered lawn maintenance equipment, including leaf blowers, shall be subject to the same restrictions as heavy equipment as described in said section.
- (b) Nothing in this section shall preclude the operation of lawn maintenance equipment by residents after 9:00 a.m. on Saturdays, Sundays or legal holidays, including the Friday immediately after Thanksgiving. Further, golf course maintenance equipment within the town is not restricted during the hours outlined herein: however, such golf course maintenance equipment shall not be used before 8:00 a.m. or after 5:30 p.m. on any day at locations within 300 feet of residential properties, except in the event of valid emergencies and once per month for purposes of chemical spraying or fertilizing. The sound level meter measurement shall be no greater than 75 dBA measured 50 feet from the point of operation of the equipment. The sound level meter measurement shall not be applicable to lawn maintenance equipment used on golf courses.
- (c) Lawn maintenance equipment includes but is not limited to lawn mowers, edgers, hedge trimmers, yard tractors, leaf blowers, lawn vacuum machines, and monofilament line grass trimmers.
- (d) Leaf blowers shall not exceed a decibel level of 65 dBA as measured at 50 feet from the point of operation. It shall be unlawful to blow, sweep or rake yard trash or clippings into the public street or storm drains.
- (e) There shall be no commencement of large scale landscape installation at any time on Saturdays.

Section 2: Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3: Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4: Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5: Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 14th day of December, 2021, and for second and final reading on this 11th day of January, 2022.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Town Council President Pro Tem

Julie Araskog, Town Council Member

Lewis S.W. Crampton, Town Council Member

Edward A. Cooney, Town Council Member

ATTEST:

Pat Gayle-Gordon
Acting Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: January 11, 2022

Section of Agenda

Ordinances - Second Reading

Agenda Title

Proposed Ordinance to Amend Chapter 74, Article V of the Town Code to Grant Beach Access to Root Trail Residents

ORDINANCE NO. 30-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Ordinance 21-2021 at Article V. - Beach Access Closure at Section 74-281. - Limited Closure of Access from Wells Road South to Sunset Avenue, to Include a New Subsection 2 Recognizing the Right of Root Trail Property Owners to have Continuous Access to the Beach Access Area located at Root Trail; Providing for Severability; Providing for Repeal of Ordinances in Conflict Herewith; Providing for Codification; Providing an Effective Date.

Presenter

John C. Randolph, Town Attorney

ATTACHMENTS:

- ▣ **Ordinance No. 30-2021**

ORDINANCE NO. 30-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE 21-2021 AT ARTICLE V. – BEACH ACCESS CLOSURE AT SECTION 74-281. – LIMITED CLOSURE OF ACCESS FROM WELLS ROAD SOUTH TO SUNSET AVENUE, TO INCLUDE A NEW SUBSECTION 2 RECOGNIZING THE RIGHT OF ROOT TRAIL PROPERTY OWNERS TO HAVE CONTINUOUS ACCESS TO THE BEACH ACCESS AREA LOCATED AT ROOT TRAIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE

WHEREAS, the property owners on Root Trail possess certain property rights to the beach access point at the end of Root Trail recorded in Plat Book 1, Page 22 of the official records of Palm Beach County;

NOW, THEREFORE, be it ordained as follows:

Section 1. Ordinance 21-2021 is hereby amended to read as follows:

Chapter 74 of the Town's code of ordinances is hereby amended at Article V, Beach Access Closure, to read as follows:

ARTICLE V.- BEACH ACCESS CLOSURE

Sec. 74-281. – Limited closure of access from Wells Road South to Sunset Avenue

1. The beach access areas between Wells Road south to Sunset Avenue, including Wells Road, Dunbar Road, Root Trail, and Sunset Avenue, shall be closed to the public each day from sunset to sunrise the following day.
2. Notwithstanding section 1 above, the beach access area located at Root Trail shall remain accessible at all times to Root Trail property owners possessing property rights established and recorded in Plat Book 1, Page 22 of the official records of Palm Beach County.
3. The Town Manager or the Town Manager's designee is authorized to post signs at said access points setting forth prohibitions set forth above.
4. Any persons found guilty of a violation of this Section by using such access points during the times of required closure shall be punished in accordance with the terms of Section 1-14 of this Code or, alternatively, pursuant to the provisions of Chapter 2, Article V, Code Enforcement.

Section 2: Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance

which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3: Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4: Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5: Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 14th day of December, 2021, and for second and final reading on this _____ day of _____, 2022.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Town Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Pat Gayle Gordon,
Acting Town Clerk

Lewis S.W. Crampton, Town Council Member